

ENVIRONMENTAL HAZARDS CREATED BY ABANDONED BARGES

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION
OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

**THE PROBLEMS CAUSED WITH WATER AND AIR POLLU-
TION, AS WELL AS EXPLOSIVE POTENTIAL, WHEN
BARGES ARE ABANDONED THAT MAY CONTAIN HAZ-
ARDOUS MATERIALS**

APRIL 29, 1991

Serial No. 102-13

Printed for the use of the Committee on Merchant Marine and Fisheries



U.S. GOVERNMENT PRINTING OFFICE

44-321 t.

WASHINGTON : 1991

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H561-32.

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CONTENTS

Hearing held April 29, 1991.....	Page 1
Statement of:	
Davis, Hon. Robert, a U.S. Representative from Michigan.....	3
Diefenthal, Edward, Southern Scrap Material Company, Ltd.	33
Griswold, Jim, Vice President and General Manager, New Orleans oper- ation, Southern Scrap Material Co., Ltd.....	35
Hertel, Hon. Dennis, a U.S. Representative from Michigan.....	4
Laughlin, Hon. Greg, a U.S. Representative from Texas.....	4
Loefstedt, Captain William J., Commanding Officer, Marine Safety Office New Orleans, U.S. Coast Guard	5
Prepared statement.....	43
O'Neill, Maureen, Assistant Secretary, Office of Water Resources, Louisi- ana Department of Environmental Quality	25
Prepared statement.....	56
Rhoades, Russell F., Director, Environmental Services Division, U.S. En- vironmental Protection Agency.....	17
Prepared statement.....	52
Tauzin, Hon. Billy, a U.S. Representative from Louisiana, and Chairman, Subcommittee on Coast Guard and Navigation	1
Additional material supplied:	
Coast Guard: Potential for abandoned barges in other ports and water- ways	11
Communications submitted:	
Griswold, Windol J. (Southern Scrap): Letter of April 19, 1991, to Billy Tauzin	60
Krizman, Ronald A. (Army): Letter of January 25, 1990, to Jim Griswold ..	62
McConnell, Charles L. (Southern Marine): Letter of January 22, 1990, to Jim Griswold	63

ENVIRONMENTAL HAZARDS CREATED BY ABANDONED BARGES

MONDAY, APRIL 29, 1991

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
*New Orleans, Louisiana.***

The Subcommittee met, pursuant to call, at 9 a.m., at the New Orleans City Hall, Room 1E104, 1330 Perdido Street, New Orleans, Louisiana, Hon. Billy Tauzin (Chairman of the Subcommittee) presiding.

Members present: Representatives Tauzin, Davis, Hertel, Laughlin, and Taylor.

Staff present: Elizabeth Megginson, Sue Stilley, Rusty Savoie, Jim Adams, Mimi Simoneaux, Sherry Steele, and Greg Lambert.

OPENING STATEMENT OF HON. BILLY TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA, AND CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. TAUZIN. This hearing will please to come to order. First of all, I would like to welcome the Members of the Subcommittee who have traveled a long distance to be with us here in New Orleans, and I would like to introduce them to our friends here in the City.

First of all, on my left is the Ranking Minority Member of the Merchant Marine and Fisheries Committee in Washington, D.C., who was Ranking Minority on the Coast Guard and Navigation Subcommittee last year and has been a close and good personal associate of mine for a long time, Mr. Bob Davis. Bob is from the Great Lakes area of the country and is like most Members of Merchant Marine and Fisheries, intimately related with marine problems and marine issues. Bob, we want to welcome you and thank you for coming to New Orleans.

I also want to welcome Mr. Dennis Hertel, who is Chairman of the Oceanography Subcommittee. He, too, is a dear friend and colleague, also from the Great Lakes area and also intimately associated with the problems of the marine industry.

And on my far right is Mr. Greg Laughlin of Texas, who like me, represents a Gulf Coastal area. And while he is relatively new to our Subcommittee, he has proven himself to be not only a valuable Member of the Committee and the Subcommittee, but he even chaired this Subcommittee hearings in New Orleans when I was unable to because of illness. Greg, I want to welcome you back.

So, gentlemen and all of you who have come a long distance to be here with us today, I want to welcome you, as I said, to the Queen City of the South and apologize for the weather. There is one thing you can be certain of about weather in Louisiana—stick around, it changes. And it should change by tomorrow, I understand.

We feel it is extremely important now and then to get away from Washington and to hold field hearings, particularly regarding issues that impact a given area of the country. Since assuming the role of Subcommittee Chair of the Coast Guard and Navigation Subcommittee, which now includes the jurisdiction of the Panama Canal again, I have made it a policy of trying to get around the country to Members' districts to talk about issues that are important in those areas. I am pleased that we are here in what is actually Rep. Bill Jefferson's District today, but very close to my own to talk about problems that are nationwide, but nevertheless, which are felt very heavily in this very water-dependent economy of Louisiana and the Gulf Coast. We are particularly happy to be here today and have Members who traveled so far to be a part of this.

Since the days of the pirate Jean Lafitte, the coastline here and the Gulf Coast has been an ideal place for outlaws to hide vessels containing contraband of all types and varieties. The coastline is rimmed with hundreds of small bayous and canals and channels and hidden coves and small islands. Many of the bayous traverse dense swamps and marshes. For those with a barge to hide, there could not be a better place in the world. However, the problem is not just a Louisiana problem. It is a problem that plagues waterways all over the country.

When barges loaded with waste oil or hazardous wastes are abandoned in our nation's waterways, they create a serious threat to the environment and to human health, and not to mention the possibility of a hazard to navigation. They threaten the purity of the air that we breathe and the water we drink, their explosive potential is real and the Coast Guard is required, of course, to respond to those kinds of threats. The responsibility to protect our waterways is shared with the Environmental Protection Agency, as well as with the agencies of State government, including our own Department of Environmental Quality here in Louisiana.

We are holding this oversight hearing today to examine the issue in detail. We need to find out whether the Coast Guard has the full legal authority to take over and clean up abandoned barges when we no longer have a responsible owner. We need to see that the procedure for accomplishing this is done in a manner that preserves the constitutional rights of the owners, while ensuring that the owners accept full responsibility for the cost.

We need to examine the availability of disposal alternatives of contractors to provide disposal services. I am interested in whether contractors are willing or are able to provide these services and how cost effective they are. We are also interested in whether they face any legal or structural impediments to providing this type of response service. We found in other environmental clean-up areas that legal and liability impediments often hamper clean-up efforts. We need to ensure the Coast Guard that the Environmental Pro-

tection Agency has the resources to provide for the most environmentally sound disposal methods.

I believe this Committee wants to be sure that our Federal and State agencies are able to provide the fastest and most effective clean-up possible. What we do not need is to allow a vessel to sit in salt water for months while it rusts away. I have heard stories that we are cleaning out these vessels only to have new waste materials placed in them later.

We must also be concerned about whether the vessels pose a danger to navigation. This area experiences frequent storms—as we are probably going to experience today sometime—and hurricanes. Vessels left unattended in storms are likely to sink or to be washed into navigation channels.

We will examine the enforcement of laws designed to address this issue. Last summer, for example, Congress enacted the Oil Pollution Act of 1990 which increased penalties for violations of the Clean Water Act. What effect have these increases in penalties had on the ability of the Coast Guard, EPA and the State to effectively enforce the law?

The Committee will be asking these and other questions today of our witnesses so that when we do return to Washington, we can begin to address any gaps in the law that would allow the situation to continue or worsen. The first priority of this Subcommittee is to ensure that the Coast Guard is able to carry out its most important mission, which is the protection of human life and the marine environment.

At this time, I will ask if any of the Members have an opening statement.

Mr. Davis.

**STATEMENT OF THE HON. ROBERT DAVIS, A U.S.
REPRESENTATIVE FROM MICHIGAN**

Mr. DAVIS. Thank you, Mr. Chairman. I appreciate the opportunity to be here. Chairman Tauzin, of course, is one of those Subcommittee chairmen that is interested in all of the issues around the country. Congressman Hertel and I come from the Great Lakes and he has afforded us the opportunity to look at problems that we have up there. So when he holds a hearing down here in Louisiana, we come down because we know that his problems are very important to his area. Certainly, you are not only famous for your hospitality here, but the energy sources that you deal to the rest of the country, including my state, are very important and we appreciate that, too.

This particular issue, I would have to confess, has not been something that I have been that familiar with. But obviously, if you have—as I understand it—perhaps hundreds of these barges lying around, it is a serious problem and we hope to be able to assist in helping solve this problem. I appreciate the opportunity to be here, Mr. Chairman.

Mr. TAUZIN. Thank you, Mr. Davis.

Mr. Hertel.

**STATEMENT OF THE HON. DENNIS HERTEL, A U.S.
REPRESENTATIVE FROM MICHIGAN**

Mr. HERTEL. Well, I do not have an opening statement, but I agree with Bob that the Chairman of the Coast Guard Subcommittee is so highly thought of over the last decade that his hearings are always well attended. We can count on the Chairman to help us with our problems because he has been a proven leader in the Congress. So, I am glad to be here, and we are very concerned about this problem. We want to help the Chairman in any way we can. Thank you.

Mr. TAUZIN. Thank you, Dennis.

Mr. Laughlin.

**STATEMENT OF HON. GREG LAUGHLIN, A U.S. REPRESENTATIVE
FROM TEXAS**

Mr. LAUGHLIN. Thank you, Mr. Chairman. I very much appreciate your having these hearings today, and once again, thanks for your hospitality in New Orleans. It has always been superb and it has always been very helpful to those of us who represent coastal areas for you to conduct the type hearings that you have conducted during my tenure on the Coast Guard Committee and I appreciate that very much.

I certainly want to associate myself with the observations you made during your opening statement. They are very pertinent to our area and I am very appreciative of your leadership in addressing this serious problem, not only to the navigational constraints and problems that we would encounter, but also to the environmental problems, and I thank you very much.

Mr. TAUZIN. Thank you, Greg.

Let me—as a way of further illustrating the work of the Subcommittee say that, just next week, we will be in the Miami area examining the issue of cruise ship safety. More and more Americans are now finding it part of their recreational decisions to take cruises on cruise boats and we are seeing more and more cruise ships in American waters. The issue of safety in these cruise ship vessels and the Coast Guard's responsibility for inspection and maintenance of safety standards is a very real one that is on many Americans' minds as they plan their vacation schedules. We will be examining the Coast Guard's role in that next week in Miami and we continue this round of hearings around America to examine issues—as I said, not only important to the nation, but to specific regions.

Again, I want to thank my colleagues for making the extra effort to be with us here in New Orleans.

The first panel today will consist of Captain William Loeffstedt, the Commanding Officer, Marine Safety Office of the Eighth Coast Guard District here in New Orleans.

And we will be hearing from four panels today. We have a limited time, of course, in the city today, and I am going to ask all witnesses to do something special for me. We have your written statements and we have read them. What I would like you to do is pretend, if you will, that you are speaking to a television audience and

summarize—hit the highlights so we can get into questions as rapidly as we can.

So if you will, Captain, if you could summarize your statement for us today without reading it, we would deeply appreciate it, as we will ask all witnesses to do. Captain Lofstedt.

STATEMENT OF CAPTAIN WILLIAM J. LOEFSTEDT, COMMANDING OFFICER, MARINE SAFETY OFFICE, EIGHTH COAST GUARD DIVISION

Capt. LOEFSTEDT. Thank you, sir. It is a pleasure to be here today. Thank you for inviting me and the other Members of the Committee. I wish to introduce those with me. I have Lt. Commander Mike Osmun, who is my Assistant Chief of Port Operations and Lt. Tony Morris of my staff.

Mr. TAUZIN. Welcome, gentlemen. Glad to have you here.

Capt. LOEFSTEDT. As the Captain of the Port, I am the pre-designated Federal On-Scene Coordinator for the area within the port zone, which is indicated by the chart on my left. In recent years, we have had several spills and abandoned barge sites which have resulted in the expenditure of substantial amounts of money. For example, a CERCLA fund response we had down at Empire, Louisiana cost us over \$835,000 in 1989. Such incidents raised my concern about this type of a spill or potential for spills and the lack of knowledge we had on the barges in the area.

In the fall of 1989, we began an extensive aerial search with the help of Coast Guard Air Station, New Orleans, to determine how many abandoned sites were threatening our waterways. Considering the conditions at the locations of some of the sites, the search project was dubbed "Operation Snakepit," for obvious reasons. If you get down in the bushes with them, you can imagine why.

The project, to date, has located some 165 potential abandoned barges, 276 storage tanks and 109 waste pits. These tanks and pits will be referred to the appropriate State and Federal agencies for their action and consideration.

A joint Federal and State inter-agency task force was formed in September 1990, and all of the involved agencies agreed to conduct a multi-phase operation to deal with the abandoned barge problem. A ranking system was developed to prioritize the threats posed by a barge, and an initial group of 20 barges presenting the greatest risks was chosen for further evaluation.

In phase one, the selected barges were visited by a "ground truthing" team of Coast Guard and EPA personnel in order to search for identifying information and conduct preliminary assessment. Phase two included an administrative records search and attempts to identify the ownership and validate the status of the barges. Phase three, the sampling phase, began on 11 March of this year. And, 16 barges that were confirmed to be abandoned were examined. We are waiting for the test results on samples from those 16 barges at this time. I will note that in the original statement, we had an erroneous figure of 19, and it is actually 20 barges for the original assessment group. To date, the Coast Guard estimates it has expended some \$55,000 on sample analysis and other Coast Guard operating costs.

Finally, in phase four, we will attempt clean up and removal of the barges which pose an immediate threat. This has the potential for being the most costly phase. Specific estimates of the cost at this time are not possible until we figure out what is in the barges and we have a better idea of the threat to the environment and the community.

Legal issues are a major concern with us. We have, at present, the Coast Guard legal staff researching the ability of the Coast Guard to not only remove the product, but then, to take the receptacle and either destroy it or in some way remove it from the environment. Under the Oil Pollution Act of 1990, we believe we have such authority. It is only a matter of determining the why's and wherefore's and we have asked our legal people to research that, which they are presently doing.

In the long run, the solution to the problem rests with prevention, and hence, with cooperative law enforcement and public education.

I thank you, and I am willing to take any questions at this time.

[The statement of Capt. Loeffstedt can be found at end of hearing.]

Mr. TAUZIN. Thank you very much, Captain. First of all, what is the criteria for identifying a barge as abandoned?

Capt. LOEFSTEDT. Are you talking about the initial group of 20 barges?

Mr. TAUZIN. Yes, the one you said you confirmed as abandoned.

Capt. LOEFSTEDT. Okay. Well first of all, from an air search, you can fly over and there are a lot of things in Louisiana that do not look like they are in the best repair. But, you do an initial search and examine—look for rust, look for disuse; things that are in places where obviously, they should not be. Those were then identified and pinpointed.

Mr. TAUZIN. Is there a legal definition? That is what I am getting to.

Capt. LOEFSTEDT. No, I do not believe there is a clear legal definition. The Army Corps of Engineers has some definition for abandonment of barges or vessels that are creating obstructions to navigation. But, even they tell you that they do not recognize abandonment.

The term "abandoned," as far as we are concerned, refers to a barge that apparently is not in use, is in a location where it is obviously not at a commercial facility, and has the potential for being used as a receptacle.

Mr. TAUZIN. Well then—let me stop you just for a second. Is it not critically important from a legal standpoint—before we take any other steps, cleaning it up, disposing of the receptacle—that we get a clear understanding of when a barge or vessel is, in fact, abandoned and therefore subject to your jurisdiction?

Capt. LOEFSTEDT. Yes sir, and we do that.

Mr. TAUZIN. But, you do not have a legal definition to work with?

Capt. LOEFSTEDT. We do not have a refined legal definition, no sir.

Mr. TAUZIN. So, the question regarding liability for a clean-up crew, liability to the owner, etc., all those things hinge on making some determination, do they not?

Capt. LOEFSTEDT. Yes sir, and we attempt to do that. Once identifying the barges, we then send out the ground truthing team. As we said, phase one is to send out the ground troops and try and pick up some identifying marks on them—some type of name or number. And then, we will go back and we will use that to enter our documentation records—our marine safety records, and determine if there is an ownership record. Having established the ownership record, we will make attempts to contact the last-known owner. In many instances, we are not able to find that owner, or find that the company has gone bankrupt, or in some way or another, establish that there is no known party that will take responsibility. And, if we do find the name of a party that we can identify, we will then put them on notice, give them notification that we have an interest in their barge and that they have some obligation for it. And at that point, they have to make a decision as to whether they are going to assist us, or whether they are going to leave it with the Federal Government.

Mr. TAUZIN. Well, let me make a point, though. If you went out there and cleaned up a barge and then took it and disposed of it, recycled it or what have you, only to find out later that it was not really an abandoned barge, that it really belonged to somebody; would you be subject to a lawsuit?

Capt. LOEFSTEDT. That is one of the questions we are asking our lawyers. We make every attempt to find the owner and to identify him. And we would hope that we would never run into a situation like that.

Mr. TAUZIN. It seems to me that in order to make sure that title passes properly to a disposer, we need a clear definition and determination process for deciding when, in fact, one is abandoned. And you are telling me we do not have it in the law at this time?

Capt. LOEFSTEDT. We have not put that down in law, as far as I know. And as I said, that is one of the things we have asked of our lawyers.

Mr. TAUZIN. We would love to hear from your legal department on that point.

Capt. LOEFSTEDT. Yes, sir. We can follow up with that.

Mr. TAUZIN. The second area I want to get into quickly is in regard to clean-up. I have heard that the cost of cleaning up a single barge of hazardous material might be as high as four million dollars, is that accurate?

Capt. LOEFSTEDT. The potential is that high, and it could be higher.

Mr. TAUZIN. It could be higher. Where do we get that kind of money if we cannot find the owner?

Capt. LOEFSTEDT. We have to use our federally-funded sources, such as CERCLA. For the Empire barge, as an example, we removed some 5,000 barrels of hazardous product and it cost about \$4 a gallon, so it was about \$835,000 in that case. That involved storing it temporarily in a barge, which then had to be cleaned itself in the end. And then, a movement by train to a hazardous waste facility to dispose of it, which happened to be in Kansas.

Mr. TAUZIN. It seems to me that owners of barges obviously maintain insurance and that there ought to be records of that insurance somewhere. Does the Coast Guard have access to those records to make sure that vessels and barges that are being used to carry hazardous cargos are properly insured?

Capt. LOEFSTEDT. During the life of the barge, when it is a barge which is built as a tank barge, certainly; the requirement is that they have insurance under the Certificate of Financial Responsibility program.

Mr. TAUZIN. Is there no program for an owner of a vessel like that to notify you that they are canceling the insurance or that the barge is no longer going to be used for its original purposes?

Capt. LOEFSTEDT. If it is a tank barge, he is required to keep it certificated for the life of the barge, while it is used as a tank barge.

Mr. TAUZIN. What I am getting at, is there no computer system that we could devise—some system of checks and balances in this area where owners would be required to report to you and where you could trace when and if an owner is no longer using a barge and to check with them on what has happened to it and why is it no longer insured?

Capt. LOEFSTEDT. We have that system, sir.

Mr. TAUZIN. All right. Then how is it that people avoid it? How is it that they simply abandon a barge and eradicate ownership evidence and stick the rest of us with the cost?

Capt. LOEFSTEDT. To the degree that it is used as a commercial barge, we track it. Once the owner determines that because of economic worth—or for whatever reason, he wants to remove it from certification, he notifies us that it is no longer in certification. We are responsible for informing him that he can no longer use it for carrying regulated products and that he must maintain it in a gas-free condition. At that point, we do not, at present, track it further. We let it go. Hopper barges, which there are thousands and thousands of at this time, we do not have any certification rules for, because they carry non-regulated cargo. Hopper barges can also be receptacles for illegal dumpers.

Mr. TAUZIN. So, it might be useful for us to set up a tracking system when barges go out of service so that you do not end up having to face the awful problem of trying to identify ownership and/or assuming responsibility when no owner can be found. Is that something missing in our law that we ought to work on?

Capt. LOEFSTEDT. It certainly would help us find the location of the owners. As of now, it would also probably give them a greater sense of responsibility for their old equipment.

Mr. TAUZIN. There are bills I have seen and we have watched dealing with automobile parts and engines to better protect against thefts and resale for various forms of identification so that police can track that material. Are we missing something here? Is there technology for identifying barges that we might employ—might require of owners so that they cannot get away with abandoning a vessel and then not being responsible for it?

Capt. LOEFSTEDT. The system now, of course, requires markings on any large vessel that is documented. And also, an official number welded—"on the main beam" is the phrase they use—

somewhere on the barge. And through those numbers, we are fairly successful in tracking the original owners. Now, whether those owners still exist, as I said, we do not know—we do not keep a close eye on it after they are put out of service. So, the problem is in holding the defunct company responsible for anything, as you have identified.

Mr. TAUZIN. Captain, I am going to allow my colleagues to ask questions now, but I have one final question for you. I get the impression there are some real serious problems out there and there is some real danger, not only to the health of the people in this area along the Gulf Coast and the waterways in general, but serious threats to the marine environment. Am I wrong or am I right?

Capt. LOEFSTEDT. We do not totally know the answer to that question; I am not sure I can give you the complete answer. We are concerned that there could be that potential. To date, with the initial 20 barges, we have had no immediate threat that would create a direct hazard to the community that we are aware of. As I said, we still have not gotten the test results back. But, that is the whole purpose of the program. Are these 165 barges creating a substantial threat? And if they are, what can we do about it?

Mr. TAUZIN. And do they—do they serve as a place for the mid-night dumpers?

Capt. LOEFSTEDT. They obviously do that.

Mr. TAUZIN. They obviously do that, do they not?

Capt. LOEFSTEDT. We have a history of that.

Mr. TAUZIN. Thank you, Captain.

Mr. Davis, your questions.

Mr. DAVIS. Thank you, Mr. Chairman.

Captain, the numbers here indicate 165 barges plus the storage tanks and waste pits. Are the barges much more treacherous than the others—the pits and the storage tanks? Are they more worrisome?

Capt. LOEFSTEDT. The barges, as Congressman Tauzin noted, are susceptible to a saltwater environment having a more direct impact. And, we feel that from our point of view, they have direct access to the navigable waters, and therefore create a more direct threat to the environment, at least to the water side, than the others do. The others certainly have a long-term potential for damage as well. We are aiming at those areas that fall most immediately within our jurisdiction, of course, and that is the water threat.

Mr. DAVIS. The numbers that you talked about, do they cover more than the State of Louisiana?

Capt. LOEFSTEDT. To date, no. We have just been doing our search within the State of Louisiana, within the southeast portion of Louisiana, basically where they are shown on this chart on my left; you can see some of the pins in that area—down in the river parishes area, down in the bayou. We have not gone as far over as Morgan City to the west of us. It is essentially along the Mississippi River that we are looking.

Mr. DAVIS. So, very likely then, this problem could extend well beyond the area that you have looked at? But this, you consider to be the worst area, is that correct?

Capt. LOEFSTEDT. We started, of course, in the area I have responsibility for, first. Yes, we have gone as far over as the Morgan City zone, and we expect that we would continue to find this problem, to some degree, throughout parts of Texas and Louisiana and into perhaps Mississippi and Alabama. Having been Captain of the Port in Mobile, Alabama, I know there are some abandoned barges in that area also, up the Mobile River.

Mr. DAVIS. Are any of the other districts doing the same thing you are that you are aware of?

Capt. LOEFSTEDT. I could not speak for the other districts. I am not aware of what they are doing. I know New York has received some publicity about having a similar problem.

Mr. DAVIS. Okay. I see in one instance here where you were able to use \$400,000 from the Oil Pollution Fund that we set up some-time ago. You found that this was something that if you did not take action on, it was going to cause a severe pollution problem? And so, then, you were able to tap into the fund. Am I correct?

Capt. LOEFSTEDT. Yes, sir. You are speaking of the Hahnville site; there are photographs here of what we did. The river was rising and the owner in that case was taking action, but the problem was that the river was rising faster than he was able to remove the oil. So, we used partial Federalization. We used the oil funds to build a wall around the barges that were the most direct threat, in order to keep the water out and the oil where it was so that we could remove it. We will do that any time we find either an actual site leaking or one having immediate potential to leak. We will take immediate action.

Mr. DAVIS. One last question. I think I saw in your written testimony here that you have pumped out a couple of barges or so that looked like they were going to start leaking, and then, you came back and found out that they were filled up again?

Capt. LOEFSTEDT. Yes, sir. Those were the ones that I referred to before. We have two barges that have been used periodically for midnight dumping. I think we have done cleanups once a year, for three of the last four years.

Mr. DAVIS. What do you do to try to catch the perpetrator?

Capt. LOEFSTEDT. Well, we have had people sitting in the bushes at night. That has not been too successful. We have the local parish sheriff's department to assist us and notify us if they see anything. Our aviators are aware of the site and if they ever see anything, they will let us know. It is a rather difficult thing to pinpoint. We have tried to put the barges out of service to the degree that we locked the hatches, we put up signs. Unfortunately, some of the signs are plywood and they make good docks for fish camps and things. And they do not last too long. And the locks get busted. We are going to the point now where we are talking about welding, if we cannot remove the barges. Obviously, the answer is removal, if my lawyers tell me we can do it. Refilling creates a perennial threat. Such barges would be likely candidates for removal and destruction in some way.

Mr. DAVIS. Thank you, sir.

Mr. TAUZIN. I might add that we have the same problem with political signs, Captain. They end up in a lot of camps around here, too.

Mr. Hertel, questions.

Mr. HERTEL. Actually, Mr. Chairman, Mr. Davis asked my question, so we would like to follow up about other problems in the Gulf and other places with the barges.

Capt. LOEFSTEDT. Yes, sir. We will be happy to follow up. I will refer that to Coast Guard Headquarters.

[The information follows:]

POTENTIAL FOR ABANDONED BARGES IN OTHER PORTS AND WATERWAYS

Although the potential for abandoned barges in other ports and waterways of the U.S. remains a concern, there is no evidence that the problem is widespread. We believe that the steps being taken to identify barge owners and ensure that they conduct effective removal provides a basis to resolve the problem and will be a deterrent for future abandonment, both in the Gulf and the rest of the U.S. The Coast Guard will continue to closely monitor this situation and work toward an effective solution to mitigate existing situations and prevent new problems from arising.

Mr. TAUZIN. Mr. Laughlin.

Mr. LAUGHLIN. Thank you. Capt. Loefstedt, I wanted to translate this into something so that we might more readily understand the significance of the problem. As I understand the average barge size carries the volume that approximately 30 18-wheel tank trucks would carry, is that a fair approximation?

Capt. LOEFSTEDT. I would say so.

Mr. LAUGHLIN. So, if you abandon 165 barges out there, if my Gulf of Mexico multiplication is correct, it is the equivalent of about 4,900 tank trucks parked somewhere, either along the roadway or parkside. So when you translate 165 into approximately 5,000 tank trucks in this area along our roadways, it would be an intolerable situation for automobile, pick-up truck vehicular traffic, would it not?

Capt. LOEFSTEDT. If I follow you correctly, yes sir, it would.

Mr. LAUGHLIN. And if they were leaking toxic waste and fluids around, we would have even more concern than what is being expressed at this time because the general public does not travel these waterways that you have been talking about where you are finding these abandoned barges as I appreciate your testimony.

Capt. LOEFSTEDT. Not necessarily. These are found in the areas adjacent to the navigable waters in many locations, quite close to fishing communities and other sites, so that in some towns, the public can be directly impacted by it.

Mr. LAUGHLIN. From your information from the Coast Guard, is this problem more serious within the zone that you have here on the Mississippi River? I forgot exactly how far west you go, but it certainly did not indicate into the Texas area. Do you hear from Coast Guard people that the problem is more serious in other coastal areas where we have barge traffic, or is the majority of the problem right here in the New Orleans region?

Capt. LOEFSTEDT. We have a sense that there is probably a similar situation in areas to the west of us, especially in those areas where oil field development has taken place. That is where we seem to get most of the pits and the abandoned tanks—at least that is part of the problem. The Morgan City area also seems to have some abandoned barges, as we have been discovering. To the degree that it matches my area, I could not give you an answer.

Mr. LAUGHLIN. Well, the reason I ask is I occasionally will fly along the coast from one of my cities to another in a small plane. I see what appears to me to be abandoned barges, and I just wondered if you had any information whether the problem was just as serious over in the Texas coastal areas or less serious, because I do not have a way to evaluate that.

Capt. LOEFSTEDT. I think we are the first ones to take the studied approach in this area, and that is why we probably were able to develop some numbers. We also have the advantage of having the Coast Guard Air Station in our back pocket to use them on a time-available basis.

Mr. LAUGHLIN. What problem do you think the Coast Guard would encounter, or any other agency of the Government would encounter, if you had some time period in which a barge could be beached or docked or landed at a place not customarily utilized for barge activity? And the point I am making is, in some of these abandoned areas, there is obviously no industrial use or commercial use. There are no docks there; there are no loading facilities or unloading facilities for the materials that barges would carry. And I think about on our highways, we in some cities and some states, have a period of time in which a vehicle can be there before it is towed away at the owner's expense and stored at the owner's expense. And I just wonder in this area, what problems you would expect to encounter if you had such a law or regulation—whether it was days or weeks—in which that barge could be left there unutilized.

Capt. LOEFSTEDT. It has potential. The difficulty, of course, is tracking it and being aware of the number of days it was located. There are people that will take their barges to a remote site and temporarily moor them there, even though there is no commercial facility, just because they have no immediate use for them. And we would hate to take that ability from them, if they are not any danger or threat to any environmental community.

In fact, as we mentioned, we started with 20 target barges. Two of those barges we determined were not abandoned, in fact. The owners had just stored them there.

Mr. LAUGHLIN. Would it create a great problem for the owner to notify the Coast Guard that we are going to store two or three barges or 15 barges at a site that is not commercially utilized?

Capt. LOEFSTEDT. I do not think it would create a problem for us, no.

Mr. LAUGHLIN. How do you recommend that we address the problem of owner accountability once a barge is no longer certified for use? It seems to me that there ought to be some accountability when an owner makes the business decision—which he should be able to do—that he is not going to use that barge, does not need it certified. No one, I think, could argue with that rationale. But once that decision is made not to have it certified or not to use it, what are your thoughts about how we hold the owner accountable? Do we have them take it to a barge junkyard where it is cut up or used in some manner?

Capt. LOEFSTEDT. I guess the answer there is that we have many, many barges that are presently not certificated, as I said before, including the hopper-type barges which also have availability for this

type of abuse. And, maintaining accountability should be the responsibility of the owner. The nationwide scope of this problem or the potential is unavailable to me. Now, I do not know that we want to be making sets of rules for the entire nation at this time, and I am not aware of all of the—shall we say—parameters and difficulties that would be involved in that. I think it is certainly something that could be considered—to hold owners responsible so they are not leaving them out in the bayous and marshes. But regarding the mechanism to do that, I would have to defer to my bosses up in Washington.

Mr. LAUGHLIN. Well, some of the barge owners that I know have been very responsible in the environmental area, and I just wondered if you have been in contact with them on their thoughts as a group on how we might address this problem.

Capt. LOEFSTEDT. As of yet, no, we have not.

Mr. LAUGHLIN. Thank you very much.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, Greg. We have also been joined since we started by another colleague from nearby—from the coastal area of Mississippi just adjacent to my district, Mr. Gene Taylor.

Gene, we welcome you here and thank you for your attendance. As you know, we are examining the issue of abandoned barges, particularly those that can be used and have been used to store hazardous material, either abandoned with them or used as dump sites. And the Coast Guard has testified before you got in about discovering literally hundreds of them in this area, and the potential problems of clean-up and liability and cost are rather enormous. So we welcome you and would now welcome any questions or comments you might want to make.

Mr. TAYLOR. Captain, I was curious. What is the registration procedure? I know for a vessel what it was.

Capt. LOEFSTEDT. For barges, it is basically the same; almost all of them are documented. Some of those used primarily on inland waters are undocumented, but will have an I.D. number issued for internal Coast Guard use. If they are certificated vessels, they will have their numbers recorded and a Coast Guard number issued. The majority of them are documented vessels and are registered with the Coast Guard.

Mr. TAYLOR. But once it is documented, there is no periodic re-registration required?

Capt. LOEFSTEDT. Yes sir, there is. They go through a re-registration process where they mail in their card and they are issued a sticker. Every five years, they get a new certificate of documentation.

Mr. TAYLOR. I guess I am getting back to your statement where you said that many of them, you do not—you do not know who the owner is, and yet, if someone is applying for a registration every five years, obviously, you should have some paper trail.

Capt. LOEFSTEDT. Well, the problem, of course, occurs once the documentation expires. They are notified for renewal. Now, many times, especially with an extinct firm you will send it out and you will get the notification back undelivered or you will receive no acknowledgement. You go after them, their address has changed. And that never tells you where the barge owner is. All that does is

tell you the address of where the owner used to be. And after awhile, it becomes a dead file, essentially. If you do not hear from them, the file then becomes inactive. You cannot locate the barge through the mail.

Mr. TAYLOR. Is not there a requirement that the corners—the outbound corners of a barge be marked with at least a white light at night as far as—so that they are not an obstruction to navigation?

Capt. LOEFSTEDT. Yes sir, if it is on or adjacent to channels, yes. It is a requirement. If it is adjacent to a navigable channel.

Mr. TAYLOR. Would you not say that if something is big enough to get a barge in there, it is a navigable channel? I guess the question is, at what point—and I know your boat is out there on a regular basis—at what point do you start to take this as a serious threat? For example, if the white light is on out there. If your boats, when they make their routine harbor patrols, are noticing the thing is dropping a little bit farther down in the water everyday. What can we do—what changes are required in the present law to give you some authority along these lines? And I guess the next question is, is there any sort of permission necessary from the land side owner of the property for these people to come moor up to a group of willow trees or just to run it up on a bank? Is there anything we can do along that line?

Capt. LOEFSTEDT. Well certainly, in the case of the mooring to a bank, the person that owns the bank has got some authority to tell somebody they can or cannot. And when a person finds that somebody has moored a 95 to 195-foot by 35-foot steel object to his trees, he might object to it. And if it is done illegally and he informs us, we will certainly try and find out who the culprit is and get him to remove it.

As far as the patrols you mentioned before in the first part of the question; yes, when our patrols go out, if they see something out of the ordinary, they will follow up on it. Many of these barges are located in fairly out-of-the-way areas. In fact, some of them are almost what you might consider high and dry. The Hahnville barges are partially dry. When the river rises to 16 feet, they are wet. When it is down at 10 feet, they are dry. And some of them have been buried in sand, had trees growing out of them, those types of things. So, some of them have been there for a considerable number of years. In that case, the owner of the land and the facility has taken partial responsibility for them and is attempting to clean them up.

Mr. TAYLOR. Would there be any benefit, in your mind, to the Government establishing a program where if someone knew that he had a barge that was no longer commercially viable, that it was becoming more of a liability than an asset, there are—I know in Mississippi and I presume in other states—private organizations that are solely in existence to take old vessels out and old rubble out and create offshore fishing reefs. Would there be any benefit to the citizens to establishing a program where a person could bring a barge once its useful life has been used up? I would have trouble believing this, but if it was no longer of any scrap value or if the cost of breaking it up was worth more than the scrap value, to where that could be made available for this purpose and possibly

alleviate some of this problem, at least from the legitimate people in the business who are trying to go through this in respect to a way of disposing of this.

Capt. LOEFSTEDT. Yes, I certainly think there would a value to that. My personal opinion is there may be possibilities if you can get it clean enough. Now, the problem is, if they have been carrying hazardous cargos or oils, there may be a problem with getting it clean enough if some of the metals have become impregnated with an oil product. If you cannot get it clean, then the only choice you have is probably to scrap it. But certainly, they represent something that should be considered for alternate uses. Bank stabilization projects or something like that. But, they certainly would be much more useful to society than they are just sitting out and rusting away in a swamp somewhere.

Mr. TAYLOR. When a barge is certificated—and especially a barge that you know is going to be carrying oil or hazardous cargo—is there any sort of upfront bond purchased to cover the clean-up at the end of the useful life of that barge? Has that ever been discussed or considered?

Capt. LOEFSTEDT. Not to my knowledge.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, Gene.

Captain, let me summarize what I think we have learned quickly from you. One is that we do not have in law now an adequate definition of when a barge is abandoned for purposes of liability and/or clean-up action. And you probably could use that, but we are going to hear from your attorneys on that.

Secondly, that there is no provision in law currently for tracking barges past their useful life. While certification and reporting of barge activity is a function of the Coast Guard and the marine industry during the useful life of a barge, once it is taken out of its useful life, nobody tracks it any more. We probably could use some legislation or regulations in that area.

Third, that there appears to be no requirements for continued insurance on barges past their useful life. And that may be a subject of some further inquiry. For example, if a barge owner had and knew that he had to maintain insurance on a barge, even after he stopped using it, it might be an encouragement for him to take that barge to a recycler, rather than simply to abandon it. If the barge owner knew that if somebody used his barge as an illegal dump site, that CERCLA responsibility would fall on him for the clean-up which could, as you said, amount to many millions of dollars, perhaps the barge owner would be more inclined to bring that barge somewhere for recycling rather than abandonment.

So that we see several areas where possibly with the help of your office, we might engage in some useful legislating and/or regulatory activities.

Finally, let me ask you one thing that seems too obvious and maybe it is too obvious for me to ask it. But when you discover a barge that is obviously abandoned, rather than posting people in the bushes to watch if anybody comes to use it, to claim it, why do we not have the authority to simply remove it—to take it to a site where we can put them all together and watch them all at one place?

Capt. LOEFSTEDT. Well, if they pose a threat under the new Oil Pollution Act of '90, we do believe there is language in there that gives us the authority to remove and perhaps destroy barges. That is the question we have asked our lawyers.

Mr. TAUZIN. So, if the lawyers say you can, that is one of the options I hope you will look at.

Capt. LOEFSTEDT. We hope that is going to be one of the options. If a barge is not creating an immediate threat to anybody though, you have all sorts of potential Government liabilities. Once you seize it, you have to maintain it. You have to make sure it is done safely. And if somebody were to get on board there and have an accident, then it places the Government in a custodial position that we have responsibility for.

Mr. TAUZIN. Well, there is one final thought, and I hope you will get your people to look at it. Technology has changed dramatically from the days when we asked people to put stickers on a boat to identify it and to even weld numbers onto the hull of a boat or a ship. It seems to me with new identification techniques, that something might be required of barges to identify them in a way that owners could not hide their identity and could not hide under an abandonment of that barge their personal liability for whatever that barge may pose as a risk to the environment and the health of the marine environment years later. It seems to me some review of the technology in this area might be very useful in terms of a proper regulatory requirement on barge identification. And I would urge you to maybe look at that, as we will look at it ourselves.

Any further question by any Members of the Committee of this panel?

[No response.]

Mr. TAUZIN. Captain, thank you. Let me first of all express the thanks of the people of this State and the region for the Coast Guard's efforts in this area. People forget how many missions we load on you and how much work you have to do with such little resources. This is another area we are just embarking on in which a couple of years could become a major mission for the Coast Guard, a very expensive one. And I only want to remind everyone again that we keep loading our Coast Guard down with these duties and expect them to perform miracles and we may need a few in this area before we are through. And miracles do not come cheap. Thank you very much, Captain.

Capt. LOEFSTEDT. Thank you, sir. Thank you for your support.

Mr. TAUZIN. Our second panel will be representatives of the U.S. Environmental Protection Agency. Mr. Russell Rhoades, the Director of the EPA Division on Region VI, representing the Environmental Services Division of the Department. He will be accompanied by Charles Gazda, the Chief of the Emergency Response Branch, also for Region VI, Dallas.

Gentlemen, we deeply appreciate your traveling to be with us today and to discuss with us this very important serious problem. The Corps has a big responsibility here, but we also know the EPA is vitally interested and involved and we would like you to share with us again your summary of your testimony today so that we can get into Q&A as quickly as possible.

Mr. Rhoades.

STATEMENT OF RUSSELL RHOADES, DIRECTOR, ENVIRONMENTAL SERVICES DIVISION, ENVIRONMENTAL PROTECTION AGENCY, REGION VI

Mr. RHOADES. Thank you, Mr. Chairman and Members of the Committee. As we indicated, we are representatives of EPA out of Region VI, Dallas office. Charles Gazda is the branch chief of our Emergency Response branch and he will be here to answer questions with me today. And we are pleased to present testimony here on this most important topic.

The discovery of the four abandoned barges that were containing oily waste and some potential hazardous waste prompted EPA to conduct a survey of some local State and Federal authorities to try to identify if there are any systems in place to track or identify barge ownership, and therefore, to pursue some liability on their part. This was occurring about the same time the Coast Guard was conducting overflights of the area. So in an effort to coordinate both of our approaches, the Coast Guard and EPA and the State of Louisiana assembled to form basically a joint response team, if you will. There is a Memorandum of Understanding between the Coast Guard and EPA which delineates areas of responsibility between what the Coast Guard will handle geographically and what EPA will handle geographically in the event of an oil spill or hazardous materials spill/release.

Mr. TAUZIN. Mr. Rhoades, if I may interrupt, it would be very useful for the Committee to obtain a copy of that memorandum. We would make a formal request for that at this time. And I apologize for the interruption.

Mr. RHOADES. Since the Coast Guard is the on-site coordinator for this particular geographical area, EPA's role in this effort has been to provide technical assistance support that would be needed in helping develop site safety plans, developing sampling plans, developing quality control and quality assurance plans and also arranging for the sampling analysis. And we are in the process of having those samples analyzed at an independent laboratory here in this state.

EPA has set aside approximately \$200,000 to date for this effort on this pilot, and that is basically through some contractor support that is on board with EPA dealing with hazardous materials.

Mr. Chairman, that basically summarizes my testimony, and we are available for questions.

[The statement of Mr. Rhoades can be found at end of hearing.]

Mr. TAUZIN. Thank you very much. In terms of the 21-day reconnaissance missions that were conducted in November 1990, were you surprised by the number of barges you found abandoned?

Mr. RHOADES. We were surprised at the number of barges and the number of pits and tanks and so forth that are out there.

Mr. TAUZIN. We have talked about the barges extensively with the Coast Guard. What about these pits? What do they look like and what are they likely to contain?

Mr. RHOADES. Well, the pits vary in sizes. They most probably would contain oily waste. They were probably created as a result, we would expect, of some oil waste that was generated from oil types of activities—either production, exploration or whatever. And

we would expect that there would be oily waste in them. To say that that is all that is there, we have no idea of knowing. We have not tried to pursue what else might be in those pits.

Mr. TAUZIN. I understand your samples are not due to be fully developed until mid-June, is that correct?

Mr. RHOADES. That is correct, Mr. Chairman. And then again, the samples that we have taken are only of the barges. We have not tried to get into the pits or tanks yet.

Mr. TAUZIN. Is there a plan to do that? Is there a plan to go in and sample the pits at some point?

Mr. RHOADES. Mr. Chairman, I think what we are trying to do is after these samples are analyzed, then we get an assessment of what is in the barges. Then, I think, we are at the point of determining, do we proceed with other barges? Do we proceed with other sampling? Or do we go ahead and try to start cleaning up what might be warranted. And so, I think there are a number of things that we have to look at. First, certainly the pits and the tanks are areas of concern. Where they fall in the priority of addressing all problems, I do not know. It is going to be dependent on how serious of a problem we think we have with those immediate barges. If we have a problem, then of course, if it is a hazardous waste problem or oily waste problem, it has to be dealt with. Those will probably receive first priority. Then, I guess we would get into looking at further sampling of other barges and, ultimately, into pits and to tanks.

Mr. TAUZIN. In terms of the legal approaches here, where do these problem areas fall? Do they fall within the Oil Spill Liability Act we recently passed and the clean-up provisions of that Act? Or do they fall within the super fund authorities for hazardous waste clean-ups? That is an important question because if they fall in the latter, in the superfund, we all know the problems of getting in line waiting for the site to be—first of all, assessed and then submitted for priority clearance at the Federal level, and then finally, announced for clean-up. You know, we are talking about years.

If on the other hand, it falls within the Oil Spill Liability problem, my understanding of that Act is that we have a great deal more latitude, the Coast Guard can—with the help of EPA—engage in some rather immediate actions to prevent those facilities from becoming an imminent endangerment. Where does it fall, in your opinion?

Mr. RHOADES. Mr. Chairman, the Superfund law does not address petroleum products, unless there are constituents in those petroleum products which would be deemed hazardous. Therefore, we would believe that the oily waste, if they are void of hazardous constituents, would be covered under the Oil Pollution Act.

Mr. TAUZIN. What happens if you find hazardous constituents in them, as you are likely to find in some cases?

Mr. RHOADES. Then, Mr. Chairman, those problems can fall under the Superfund law. We believe that in that area, if in fact, we find hazardous materials, that those clean-ups can be pursued under the Superfund law. But the oily wastes, if they are exclusive of any other hazardous constituents, would have to be handled by the Oil Pollution Act.

Mr. TAUZIN. So, we have the irony here—and it is a real irony—of a legal situation where if you find only oily waste, you can deal with it right away. But if you find something worse, you cannot deal with it right away.

Mr. RHOADES. Mr. Chairman—

Mr. TAUZIN. You have to wait. Is that not a terrible irony?

Mr. RHOADES. Mr. Chairman, if I may try to clarify. In the Superfund law, there are two elements of the program as it is implemented. One is called removal. Statutory limits are to allow for the immediate stabilization of a dangerous situation; that being necessary to reduce the risk to the public health and to the environment. The statutory limits basically say that if you can clean up the problem for 2 million dollars in less than a year, you can authorize a removal action.

Now, we have removals that have exceeded 2 million. We have one removal in one State in our region that has gone up to 14 million dollars over a period of three or four years. So, there is a quick fix in many instances, and this is why we address emergency responses and some of the shorter term clean-ups through removal.

Mr. TAUZIN. Let me see if I understand you. You are saying that you used the \$2 million one year authority to clean up that particular one that went \$14 million in three years. How did you do that?

Mr. RHOADES. It was a site, Mr. Chairman, that was also ranked on the national priority list.

Mr. TAUZIN. Ah, that is the problem. It was already ranked. Again, let me draw the irony out for you and ask you whether or not we need to look at that. My concern is that if it is a serious enough problem, that is going to cost more than \$2 million and is so bad, it is going to take more than a year, then we have to wait. So, we have a situation where if it is not a serious problem, if it is just oily waste, we can deal with it right away. If it is a somewhat serious problem that we can deal with under \$2 million and within a year, we can get emergency response authority under superfund CERCLA. But if it is a real serious problem, we have got to wait. Is that not a terrible way to set this thing up? Should we not deal with that?

Mr. RHOADES. I think ultimately, that is true, Mr. Chairman, that it would be an extensive period of time for the area to be ranked, if it did rank. And that would be a long drawn-out process. As I say, we are trying to address what we can through the removal authority; however, there are limited funds available in that removal program. There is just so much money available through EPA to do this.

Mr. TAUZIN. What are the limits there?

Mr. RHOADES. Mr. Chairman, our budget in Region VI runs roughly each year—give or take a million—about 10 million dollars. And this is to address the various emergencies, the train derailments, the explosions, the abandoned warehouses—everything. And we are trying to cover this program right now through those funds that we have and some additional funds that EPA is trying to set up for us from its national emergency contingency fund for this special effort. But if it became a massive problem that re-

quired significant resources, there would have to be additional resources being provided to EPA in the Superfund program.

Mr. TAUZIN. I want to stress again, what we are talking about is the fund's authority and responsibility in situations where you do not have a responsible owner. Hence, again the importance of placing in our law some system for identification of ownership and tracking and perhaps even requiring liability insurance past the useful life of a vessel. So here we are talking about a situation with hundreds of pits and barges containing things we do not even know yet—we have not begun to assess yet. And you are telling us that at best, you have \$10 million to spend on everything you have to do, including a lot of other trains and trucks and other incidents that could cost the region a great deal more than \$10 million. We are in a bind here, are we not?

Mr. RHOADES. Yes, sir.

Mr. TAUZIN. If I had to summarize your testimony, one, you have just begun to examine the dimensions of this problem.

Mr. RHOADES. That is correct.

Mr. TAUZIN. Two, that it could be a lot more serious than we know, since you do not know what is in those pits and you have not yet even gotten your analysis done on what is in the barges you have sampled. And they are samples; they are not a complete review.

Mr. RHOADES. That is correct.

Mr. TAUZIN. And three, once we find out how bad it is, if it is really bad, we cannot do much about it for many years. Is that the summary of your testimony?

Mr. RHOADES. I think that it would require some change in policy and financing to deal with it.

Mr. TAUZIN. I think it would, too. Mr. Rhoades, you have properly alerted me. Let me see if the other Members have some questions at this point.

Mr. Hertel.

Mr. HERTEL. Thank you, Mr. Chairman. I am really glad that you have been able to call attention to this serious problem. It would appear that because we have gotten tougher in requiring the clean-up and the proper disposal of these barges that has not created the problem rather the people have moved toward abandoning these barges just recently, is that true? Do you think it has just been in the last few years this has become a bigger problem?

Mr. RHOADES. Mr. Chairman, I do not know. I really do not know what the age of these things are or when it did occur. Certainly with increased pressures from the law, it would probably encourage some people who do not want to comply with the law to get rid of these things. Certainly, if they are not receiving any severe penalties as a result of it, it would probably, you know, force one to think about probably doing that if they were so inclined.

Mr. HERTEL. In the past, you say that barges were disposed of improperly and dumping occurred. So, has the law really made an improvement in that regard?

Mr. RHOADES. We would hope so, Mr. Chairman. I do not know that we have any definite date or statistics to show that—I need to correct myself. Are we talking about the oil pollution area or the hazardous materials?

Mr. HERTEL. Both.

Mr. RHOADES. Both. I think in the hazardous materials area, Mr. Chairman, we are seeing improvements nationwide—and in this area down here as well—because of the hazardous waste laws; not just Superfund, but there is the Resource Conservation and Recovery Act which requires owners to control their waste in a proper manner. And there is a tracking system which essentially controls the waste from cradle to grave, and that has been in effect since 1984-1985. And we think we have seen definite gains nationally because of that program. In the oil pollution area, I think we are also seeing improvements there. However, this abandoned barge problem obviously is one that has sprung up here. And how long it has been since those barges have been abandoned, we really do not know. We just do not have a handle on that.

Mr. HERTEL. Thank you.

Well, Mr. Chairman, I think we can ask the Coast Guard later about that as to—again, how rapidly this is becoming a problem. They said they would check for us around the rest of the country, too. But clearly, it is a serious problem. There is nothing people are more concerned about than their health. And to have this kind of a hidden danger could be very, very frightening. Thank you.

Mr. TAUZIN. Thank you, Dennis. And I suspect when the Coast Guard gives us this final report, you will find that you have got the problem in your back yard, just as we do here in Louisiana.

Mr. Laughlin.

Mr. LAUGHLIN. Thank you, Mr. Chairman.

Mr. Rhoades, as I understood when you were talking about the 10 million dollars available in your budget for clean-up, you were talking about just in the Region VI budget?

Mr. RHOADES. Yes sir, Mister Laughlin, that is correct.

Mr. LAUGHLIN. Can—for those of us here who do not know the size of Region VI, can you just tell us what states make up Region VI?

Mr. RHOADES. Yes, sir. Mr. Laughlin, it is Texas, Louisiana, Oklahoma, Arkansas and New Mexico.

Mr. LAUGHLIN. And that does not represent—well, the obvious is there. Let me go to the next point. I certainly commend you for your pilot survey. But as I appreciate your testimony, that pilot survey did not include any of the Texas coast?

Mr. RHOADES. Yes sir, that is correct.

Mr. LAUGHLIN. Do you have any plans to survey the Texas coast for abandoned barges and—

Mr. RHOADES. Mr. Chairman, at this point in time, we do not have any plans beyond really looking at the sample results and then trying to re-evaluate and see where we would go from there.

Mr. LAUGHLIN. Well, from your early results from your pilot survey, would it cause you to believe that you might find the same problem in the other coastlines where the barge traffic operates?

Mr. RHOADES. Mr. Chairman, I think there is quite a probability for that. And obviously, there are other areas that do need to be looked at. No question.

Mr. LAUGHLIN. Certainly, people in Louisiana monopolize some things, but you are not suggesting they have a monopoly on this problem, are you?

Mr. RHOADES. No sir, definitely not.

Mr. TAUZIN. Texas is big in everything, Greg. I suppose you are probably bigger than we are in this area.

Mr. LAUGHLIN. Well, we certainly do not want the problem, but I do appreciate the nature of our hearings trying to address just what the problem is and how big the problem is. And as the representative for Texas here today, I would certainly hope we had none, but I think I would be naive and putting my head in the sand to suggest that we do not.

If you go forward with plans to do a survey in the Texas—or certainly, my colleague to my right has a coastline he is very interested in Mississippi, would you notify this Committee and those of us individually on the Committee of those plans? I think you will find that we are more than willing to assist and support you in those efforts.

Mr. RHOADES. Yes sir, we would do that.

Mr. LAUGHLIN. Thank you very much.

Thank you, Mr. Chairman.

Mr. TAUZIN. Thank you, Greg.

Mr. Taylor.

Mr. TAYLOR. Mr. Rhoades, I know this obviously is not a new problem. I used to skipper one of those small boats for the Coast Guard going up and down the bayous. I was just curious, has it been aggravated by the downturn in the inland towing business since about 1980? Have you found that a lot of people who, as their business went down, just tied up to the dock? I would take it for awhile, they presumed at some point it would come back. And then, after four, five or ten years when it had not come back, have gotten out of the business and the local, state, and Federal Government are somehow stuck with this problem? Is that fairly accurate of how we got to this point?

Mr. RHOADES. Mr. Chairman and Representative Taylor, I am not sure how we got to this problem. I think what you are saying is certainly a phenomenon that has probably encouraged some people, as we said before, to possibly abandon their barges. But what really has caused this and what really has driven the people to it, I really do not know. We do not have that much information.

Mr. TAYLOR. I guess my question is, had we—as we do now in the case of landfills and as we do now in the case of deep-well injection, incinerators and so many other things where we now, presuming that there will be a problem at the tail end of the life of a business, require some sort of a bond to just insure—or some sort of statement of financial security—that when the time comes that there will be enough funds to dispose of this in a way that it does not become a burden to the taxpayers. Would that be a reasonable course to pursue, or do you have a better option as far as—again, to protect the taxpayers from assuming this liability, which, in effect, they have. If you have got to go in and clean it up, then the average citizen is getting a little bit less for his tax dollar because some of that money is going to clean up that barge.

Mr. RHOADES. Mr. Chairman and Representative Taylor, I think that is an appropriate way—one appropriate way to approach it. It is somewhat similar to the concepts embodied in the Resource Conservation and Recovery Act where there is a liability responsibility

on the people who generate and treat and store and dispose of waste. It is also a concept embodied in the underground storage tank program where liability for clean-ups is a responsibility of the owner. So, some insurance has to be provided up front in the event there is a leak, that there are funds available to clean that up without having to expend Government funds.

Mr. TAYLOR. I find it ironic that a shrimper who is down on his luck, his boat sinks—in particular—anywhere, but in a channel, then this fellow who is already down on his luck has to pay the cost of having that shrimp boat removed. And you are telling me that is not the case with this barge?

Mr. RHOADES. Mr. Chairman, Representative Taylor, if you cannot identify the owner, then there are no resources available, other than the Government's to deal with it. If you can identify the owner, then I believe that under the Oil Pollution Act—again, I would have to defer to the Coast Guards attorneys. But I would think there would be a responsibility on the part of that owner to adequately take care of whatever is required to remedy the problem—if the owner is solvent.

Mr. TAYLOR. But again, there are a lot of "if's" in there. Number one is, I cannot believe you cannot find the owner. If they have got to get a certificate renewed every five years. Number two is, at one point we are saying, well, we have no means of going back and getting the owner of the barge to clean it up. And now you are saying, well, if we could find them, we could. Which one is the actual scenario that we are dealing with? Is the owner of that vessel legally responsible for disposing of it in an environmentally safe manner now, or is that part of the problem?

Mr. RHOADES. Mr. Chairman, Representative Taylor, it is my understanding that the owner of the barge is legally responsible for properly taking care of that material that is in that barge—if they can be identified. And if they have resources to deal with it. If they are bankrupt, obviously, it will be difficult to get them to do anything.

Mr. TAYLOR. So, the lack of a paper trail—getting back to the person who has title to the barge is part of the problem?

Mr. RHOADES. Yes sir, Mr. Chairman.

Mr. TAYLOR. Okay. Thank you.

Mr. TAUZIN. Mr. Laughlin has another question.

Mr. LAUGHLIN. Mr. Rhoades, when you have an abandonment, someone within the ownership chain has made a conscious decision to abandon that barge somewhere, would you not agree with that?

Mr. RHOADES. Yes sir, Mr. Chairman.

Mr. LAUGHLIN. And based upon that conscious decision, do you think it would help if we had some personal liability that goes beyond the corporate entity when an abandonment decision is made? Would that help your agency and pursue the recovery of funds from people who make conscious decisions, rather than looking upon the taxpayer out here who is innocent in that conscious decision?

Mr. RHOADES. Mr. Chairman, Representative Laughlin, I think that would provide quite an incentive for people to comply with the law.

Mr. LAUGHLIN. I think it would, too. I just wondered what your position was on that.

Mr. RHOADES. I think that we believe it would be helpful.

Mr. LAUGHLIN. Thank you.

Mr. TAUZIN. There are right now, are there not, criminal penalties that can be attached to an owner who creates a situation under the Superfund Act?

Mr. RHOADES. Yes sir, Mr. Chairman, that is correct. We have an active criminal enforcement program in that area.

Mr. TAUZIN. What Mr. Laughlin is talking about is piercing the corporate veil and going beyond the bankruptcy to the owner.

Mr. RHOADES. Yes.

Mr. TAUZIN. Which is perhaps something that needs to be looked at.

As a final thought, Greg talked about how big our region is and you sampled only a small part of the region. So that I guess we can probably extrapolate from the numbers you have given us and say that we have got a problem that is not necessarily in the hundreds, perhaps even in the thousands of either pits, barges or locations that are going to be subject to this review eventually, is that right?

Mr. RHOADES. Mr. Chairman, it could get that high.

Mr. TAUZIN. And one final thought in regard to ongoing owner responsibility. We are very concerned right now about the unlimited liability provisions of the Oil Spill Liability Act and its tendency to create one-ship corporations. Do you—or have you seen that to be a problem in this area, and is it one we need to be concerned about? If we are not careful, could we not create a situation where there would be one-barge corporations with liability limited under the bankruptcy law, and therefore, public responsibility for more and more of these clean-ups?

Mr. RHOADES. Mr. Chairman, I do not know that I am really qualified to address that. But certainly, that could happen because it is extremely expensive.

Mr. TAUZIN. Let me thank you, first of all, for the expenditure of time and resources to assist the Coast Guard in this area, Mr. Rhoades. Recognizing your limited resources, we are especially appreciative of that. Secondly, we would like to get that memorandum so we know your respective role in it. And third, we would be extremely interested in receiving the results of your analysis when those samples are finally analyzed and we get an idea of what we are looking at. And finally, we would like you to keep us informed as to your schedule from here on out as to what you might be reviewing and what your further plans might be in terms of sampling and gathering information for us.

Yes, Mr. Taylor.

Mr. TAYLOR. Mr. Rhoades, I have just one final question. Obviously, a barge is not the only way that you would move hazardous cargo. I would be curious if you could take the time to see in the case of tanker trucks how this is addressed. Obviously, we do not have the sides of the highways littered with abandoned tanker trucks. I was wondering what was being done on that side to prevent a similar situation. Obviously, something is being done to prevent a similar situation. If we could look at that as a possible source of guidance.

Mr. TAUZIN. Gene, if I can jump in. Louisiana in this one environmental area leads the nation. Louisiana in the 70's actually passed a manifest tracking statute that has been a model for other states. California has adopted our model, for example. We currently have in place a system under the Federal law that manifests waste in tanker trucks. We also have a vehicle registration system in most states that pretty well tracks ownership of trucks. We have got nothing comparable to it when it comes to barges and vessels, and that is the problem we are exploring today. We need a lot of work here, perhaps even legislation.

Thank you, Mr. Rhoades.

Mr. RHOADES. That is correct, Mr. Chairman. It is the RCRA program nationally that tracks hazardous waste.

Mr. TAUZIN. And we will be re-examining RCRA for reauthorization this year in the Energy and Commerce Committee. And so, we will get another look at how that applies. I suspect that oil fuel waste is going to be included in that debate this year, so we will have a lot more information on that for you as the year goes by.

Mr. Rhoades, thank you very much.

Mr. RHOADES. Thank you, Mr. Chairman.

Mr. TAUZIN. Our third panel today will be Maureen O'Neill, Assistant Secretary of Office of Water Resources for the Department of Environmental Quality here in Louisiana. She will be accompanied by Tom Killeen, the Enforcement Program Manager for the same division.

Maureen, I can welcome you, and at the same time, thank you for the great talents of our staff director, Liz Megginson. Liz was the Assistant Secretary to the Secretary of the Department of Environmental Quality before we obtained her services for our Committee in this extremely important environmental work we do. Her training at the DEQ has been extraordinarily useful for her service in Washington, D.C., and we thank you for that.

Maureen, we will be happy to hear again your summary so that we can get to Q&A as quickly as possible.

**STATEMENT OF MAUREEN O'NEILL, ASSISTANT SECRETARY,
OFFICE OF WATER RESOURCES, DEPARTMENT OF ENVIRONMENTAL QUALITY, STATE OF LOUISIANA**

Ms. O'NEILL. Great. Thanks. And I would like to welcome you all to New Orleans. And there is no doubt in my mind that this Committee is in good hands with the Louisiana representation.

I know—certainly know Representative Tauzin and Elizabeth Megginson are familiar with the perspective of the lower Mississippi River. But for those of you that may not be as familiar, let me just try to put this in a little bit of perspective for you. The lower Mississippi River, basically from Baton Rouge on down—we are talking about approximately 90 miles and we are talking about the drinking water source for one-third of the state. We are talking about a major source of water for the fisheries of Louisiana. The fisheries industry in Louisiana is of major, major importance. So, when we talk about abandoned barges and we talk about waste problems, we also have to keep in mind our drinking water and our seafood.

We have one of the largest exposures in the United States to toxics here. We have the unfortunate dubious distinction of ranking number one. We are net importers of hazardous wastes, which means we are bringing more in than we are sending out, unfortunately. In addition to that, we have one of the largest amount of drilling and we are in an economic downturn. So with all of those factors, obviously, the potential is there. And as we are seeing, not only the potential, but I believe the reality with the barges, too.

We are very appreciative of what the Coast Guard is doing. We have had a great relationship with the Coast Guard. I have worked with them I guess it has been probably over 15 years now. And they do a wonderful, wonderful job down here and we are grateful for that.

This is a new program and I think that one real wonderful thing about you all coming down here right now is that what we can do is try to perfect this program so that it is successful. There are some things that we believe need to be straightened out, but we think that we have got a good beginning, but there is some fine tuning.

One of them certainly is the barge disposal issue. That is of utmost importance to the state, and I believe also to the Federal Government. I believe that to date, none of the barges have been removed, and it is going to be of utmost importance that we do get clarification within the law about the disposal of the barges and that that clarification include CERCLA, as well as any other type of wastes that may come into play. Because as I mentioned, with the types of sources, fisheries, drinking water, we need to move these and we should not just be focused on one type of waste. If it is hazardous, it is hazardous.

We do—the State does have some authority and we do have some capabilities, but they are extremely limited—extremely. Just recently in one of our special sessions, we passed an oil spill bill for the State of Louisiana. There is a provision in there that of our oil spill fund bill, that there would be one million dollars available; however, the reality is there is not one penny in there right now. Hopefully at some point, there will be some money in there. But the reality of all of this is, is that these clean-ups are incredibly expensive. One million dollars is probably going to be the proverbial drops in one of these barges. It is just not going to make that much difference. The money basically is targeted towards oil spill clean-up, but certainly, we very much want to participate. But we certainly do feel we need to point out our limitations.

We also feel that there should be some criteria developed for abandoned barges, and not limited to just the barges, but to any kind of platforms—any type of area where there is potential in the waterways, and not just have a very narrow definition of abandoned barges per se.

We also feel that it would be wise to do geographical expansion of this, and this is one—again, one of the reasons we are so glad that you all are down here because I think with being down here and perfecting this, when it does expand either to other areas of Louisiana or to your areas that you are expressing concern about, that hopefully, the program will be even better.

We know that there are some problems in the Morgan City area. We know that there are some problems in the Lake Charles area. Certainly, the New Orleans area is of utmost importance to the state. But we do feel that the other areas—the other coastal areas also need some protection.

We also feel that there needs to be some clarification of Federal versus State roles. We are concerned about that right now. There is not a memorandum of understanding between the State and the Federal Government right now. We would urge that very strongly. We have worked with the Coast Guard on the beginnings of a memorandum of understanding, but certainly, we believe that all parties should be party to that, so that it should be the Coast Guard, EPA and the Louisiana Department of Environmental Quality.

And finally, although this is not on abandoned barges, I cannot miss this opportunity to say, please keep the Coast Guard here longer. It has been an ongoing issue that—it would be wonderful if we could keep some of these folks here longer than three years. We understand that there is a reason to transfer people, but this is a complicated area. And as soon as somebody really starts getting up to speed, they are gone. We like these people; we want them to stay. So with that, thank you.

[The statement of Ms. O'Neill can be found at end of hearing.]

Mr. TAUZIN. Maureen, our problem is everybody else wants to come and take their place.

Ms. O'NEILL. It is a good area.

Mr. TAUZIN. It is a rotational problem. That is also a problem for Marine Inspections and on down the line. Coast Guard personnel get used to our people and the way we do business and the way shipyards operate. Then they get rotated out and we end up with new people who have to learn all over again. Just learning the language and the cuisine is tough enough for them.

You are right. We have, in effect, a State law now that complements the Federal law. But in Louisiana, we do not have a dime yet. We have provided only a drop in the proverbial rust bucket.

And so, we are left with only the beginnings of a program, as you point out. Identification, analysis and then the question is wide open—what happens next? If today you finish your identification and you complete your analysis and you find out that there are 200 hard cases and barges or pits or something that needed immediate action, where would you go for funding? Where is it?

Ms. O'NEILL. Well, we would probably come to see the Federal Government in Washington. We would also go to Baton Rouge, obviously. But again, the reality of it is, is there really is not any money. The State right now is faced with over 600 inactive and abandoned hazardous waste sites. These are landside sites. These are—we are not talking about water sites. We would do the best we could. We would prioritize and we would do what we could. But the reality is, is there is just not money there right now. If we saw that there was something of absolutely imperative danger threatening something, we would move on it. But that becomes a judgment call, too. I mean, what is there, a chronic effect, a long-term small dose versus a very serious immediate threat. The reality is, is we just do not have money in this State right now.

Mr. TAUZIN. But, Ms. O'Neill, you made an extraordinarily good point in the opening of your comments. Land-based disposal problems is one thing. Where there is a hazardous waste site discovered by this state—as you pointed out—nine times out of ten, they are not associated with the drinking water and the fisheries. It may be located somewhere on land that maybe can wait. Some of them cannot wait, I understand. But some may fall in the category of being suitable for action a year from now, two years from now, rather than an immediate problem.

But what we are talking about today, as you so well pointed out, are sites of materials that are in the very same water we drink and in the very same water that is part of the food chain for this enormous fisheries that is so critical to the economy of our State and so critical to the health of our people because we consume those seafood resources probably more than anyone else in America.

Are our priorities backwards? I mean, should we not be looking maybe on the State and Federal level at addressing those water-related hazards a lot sooner than we address some of the land-related hazards?

Ms. O'NEILL. Well, you are talking to someone with a very strong bias towards water, so I do not know that—I do not know that my answer—

Mr. TAUZIN. That is why I asked you.

Ms. O'NEILL. Well, of course, I think that that is of utmost importance. But also, certainly, it is also critical that we do take a look at the land issues, too, because some of these are near residences and—

Mr. TAUZIN. I am not dismissing that. My point, however, is that when you look at the way we have structured our clean-up systems, we have been assessing land-based disposal sites for years now and fighting to get them on the approved list under CERCLA for years now. We are just beginning to look at what may be a much more closely related hazardous waste problem to our drinking water and to the fisheries and some of these other problems we have been examining for years.

Ms. O'NEILL. I agree.

Mr. TAUZIN. And what you are saying is we do not have a dime available in Louisiana. And if you want to get any help, you have got to go begging the Federal Government for help if you find an imminent endangerment problem. That is—that tells me maybe our priorities are backwards here. Am I wrong?

Ms. O'NEILL. Well, I think what it says to me is that we have—we are much better now at discovering our waste problems than of solving them. I think that is the stage that we are in all across the United States. And I think that we are also realizing these incredible price tags that go with everything. So, I think it is kind of the age of discovery of this, and we now need to get into the age of funding and that is going to be the really, really tough part.

But certainly, one of the things that I think that you all can do today is to take a look at the disposal of these barges. I think if there is any one thing that you all can do today that we would urge you to do is the disposal because what is happening, as you mentioned, people are getting rid of the waste, and then others are coming back and illegally dumping in it. So, that is one thing we

can do right now, and that is not going to cost money for you to deal with that issue.

Mr. TAUZIN. In terms of that, one of my colleagues asked me, if we have a good manifest tracking system for trucks, how is it that people end up avoiding it and dispose of their waste by midnight dumping into these barges?

Ms. O'NEILL. Well, I think it is just an area that has been overlooked, and I think it is a good idea to look at a manifest tracking system for the waterways also.

Mr. TAUZIN. But my point, Maureen, if some of the dumping that is occurring is coming from trucks, is it?

Ms. O'NEILL. Absolutely.

Mr. TAUZIN. How are those truckers avoiding our current manifest laws?

Ms. O'NEILL. Well, we have some outlaws, unfortunately. We have some folks that are going to break the law no matter what. Fortunately, they are a very small minority, but they are there.

Mr. TAUZIN. Our problem basically is as long as they have a convenient place to put it, like a sunken barge—

Ms. O'NEILL. And if nobody is looking—

Mr. TAUZIN. Nobody is watching. That is an open invitation to undercut the competition.

Ms. O'NEILL. Absolutely.

Mr. TAUZIN. They do some midnight dumping, and therefore, get the business away from somebody who is trying to follow the law.

Ms. O'NEILL. Absolutely.

Mr. TAUZIN. In terms of the disposal of the barges, we are going to hear in our last panel from Mr. Diefenthal of Southern Scrap, who has done a lot of work in the Mobile area disposing of barges. Can you give us any recommendations in regard to that?

Ms. O'NEILL. Well, clarification of the law, and I believe the Coast Guard did say that they were asking their legal counsel for that. And also to make sure that it does cover all types of waste so that it is not limited to just one type of waste because otherwise, I think in Louisiana particularly—and I would assume Texas also. I think you have a similar situation. You are going to get into—if you start getting into a real narrow definition of it, you are going to find all of these other—all of these other vessels that are going to have some type of mixed waste and it may not cover it.

Mr. TAUZIN. So that we may want to talk about a special category that kind of overlaps both the Oil Spill bill and the CERCLA?

Ms. O'NEILL. Absolutely. I would encourage something encompassing so that it is not so narrowly defined.

Mr. TAUZIN. Thank you, Maureen.

Mr. Davis, any questions?

Mr. DAVIS. Thank you, Mr. Chairman. To follow up on some of the things that you talked about, I come from the State of Michigan, where we have a tremendous number of hazardous waste sites that we are attempting to clean up. One of the questions that we always have is, what are the financial responsibilities of the state? What are the financial responsibilities of the Federal Government? There is no doubt that the contributions that Louisiana has made to the nation are there. I guess I would like to know, what are the other environmental hazardous waste problems? You talked about

landfills and wastepits, those kinds of things. On a priority list, where does your department put barges as a problem?

Ms. O'NEILL. I would put barges as a significant issue. Probably, the Department—actually, right now, the Department is one of the few in the entire United States that has been ranking its environmental risks in the State of Louisiana, and I believe air toxics has actually been the number one ranked problem. It may not be necessarily, again, from my perspective. But not that air toxics is not a significant issue in this state. But it is something that I think we do not have enough information to really properly rank it. All we know is that there is an issue; there is a problem; there is an exposure, and that these waterways are vital to the health of the State and also, I believe, to this country.

Mr. DAVIS. Does the State do anything at all in the way of trying to track down—catch the perpetrators who have left their barges there? From here on out, what is the State doing? Maybe that is not in your particular area, but what does the State do?

Ms. O'NEILL. Well, we have—I have with me our Emergency Response people, as well as an attorney with our section with Inactive and Abandoned and the head of our Enforcement Division for water. We work with the Coast Guard; we work with the Environmental Protection Agency. But it is a partnership. We do work with them. We have several vessels available on the Mississippi River; one in the Baton Rouge area; one in the New Orleans area. But basically—we have 25 percent of the nation's chemical industry in Louisiana, so we spend—we use those vessels basically to be checking the outfalls of the folks that are discharging into the river. It does not allow much time to be getting into initial discovery, which is why we are so grateful that the Coast Guard is here and that they do as good a job as they do. But it is a partnership. We work with them.

Mr. DAVIS. How much money does the State of Louisiana spend on environmental clean-up of any kind? Do you have any idea?

Ms. O'NEILL. I do not have a dollar figure off of the top of head. Actually, Elizabeth may be as well qualified to answer that as anybody. Two million? It is a pitiful amount. It is absolutely pitiful.

Mr. TAUZIN. I can give you one number. There was a story in the paper—an editorial just this weekend that indicated that the staffing for the Department of Environmental Quality has increased by 110 percent in the last several years. It is evident that there is an ongoing effort to beef it up significantly, but we are way behind.

Ms. O'NEILL. Absolutely. Yeah, there has been.

Mr. DAVIS. Thank you.

Mr. TAUZIN. Mr. Laughlin.

Mr. LAUGHLIN. Thank you, Ms. O'Neill, and over in Texas, we would call that "Bio Laforsh," but I have been here enough that even with my background, I know it is Bayou Lafourche.

Ms. O'NEILL. That is it. You got it.

Mr. LAUGHLIN. Close enough for a Texan.

Ms. O'NEILL. You got it.

Mr. LAUGHLIN. I find that very tragic that such a beautiful waterway through this State is becoming a dumping site for abandoned barges. And you mentioned a couple—

Mr. TAUZIN. Do you want to hear something more tragic than that? I mean, Bayou Lafourche is my drinking water source in Thibodaux. So, I am more concerned than even the way you pronounce it.

[Laughter.]

Mr. LAUGHLIN. Now I understand why you have some of the handicaps you have, Mr. Chairman.

[Laughter.]

Mr. TAUZIN. They are more numerous than you know, Mr. Laughlin.

Mr. LAUGHLIN. In your report, you mentioned a couple of the barges. Were you able to determine who their owners were?

Ms. O'NEILL. Where is David? Let me ask him about it.

Mr. HAMMATT. Which barges?

Ms. O'NEILL. There is one over in Bayou Lafourche that we mentioned.

Mr. LAUGHLIN. The Gail L was one of them and the——

Ms. O'NEILL. Those are both abandoned——

Mr. HAMMATT. Yes, those are abandoned, but it is my understanding that the Coast Guard has tracked those to a now defunct company in Texas, I believe.

Mr. TAUZIN. You had to ask, huh, Greg?

[Laughter.]

Mr. LAUGHLIN. Let us withdraw that question and that response.

[Laughter.]

Mr. LAUGHLIN. But I must tell you that through our history, we have been known as a dumping ground for outlaws. So were you able to determine who the individual owners were in the corporation that is now defunct in Texas?

Mr. HAMMATT. I am not—I am not aware, sir.

Mr. LAUGHLIN. Well, it seems to me as we were talking to the previous witness that certainly, the act of abandoning or leaving those barges in Bayou Lafourche was an intentional act. It certainly seems to me, Mr. Chairman, with the long-range environmental health problems that we are faced with that we certainly ought to carefully review personal liability in these intentional acts.

And I can only draw the analogy that when I was a prosecutor, if the chairman of a corporation had pulled his gun and shot someone, the corporation would not have been held responsible, but he, the individual, or she, the individual, would have been. And this act of intentionally abandoning a barge to become a dumping ground for toxic waste is certainly an equivalent type intentional act that the owner individually should be held accountable.

Mr. TAUZIN. Will the gentleman yield? I want to caution him that we have got it tracked to Texas now. You might want to watch your questions. We might end up finding out it is a distant relative of yours that owned the defunct company.

[Laughter.]

Mr. TAUZIN. But your point is well made. And, Maureen, I wonder maybe if you could—to follow up on his question—indicate whether the State law imposes any personal liability on individuals in that instance.

Ms. O'NEILL. I do not believe it does, does it, Keith?

This is Keith Petrie with our Legal Division.

Mr. PETRIE. I think the question is whether the State law imposes personal liability in terms of the responsibility for clean-up of these barges. Yes, it does if we—again, if we can locate them. However, in this particular case, you were asking about the Gail L and Bayou Lafourche. And in that case, I believe that that—that the former owner was a corporation. That is my understanding at least. And so, in that instance, of course, the individual owners would be protected by that corporate veil.

Mr. LAUGHLIN. Well, the point I am making is to go beyond the corporation because the corporation is made up of individuals who make decisions for the corporation. And in intentional acts—and I use the murder example—but, an intentional act of abandoning a barge, I am suggesting we should consider piercing the corporate veil to hold the individual responsible.

Mr. PETRIE. Yes, sir. I think my first—the first part of my answer had to do with sort of the civil liability, the financial responsibility. In terms of criminal liability, we do have some—we do have, in fact, on our—in our State statutes, you know, criminal provisions. As a matter of fact, within the DEQ, we have just recently—as we have been increasing the size of our staff, including our legal staff, we have hired an attorney who is a specialist in criminal—criminal law. And we are beginning to pursue those matters. We just have not yet had the sources or the resources to do that, but we—there are provisions and we are beginning to do so.

Mr. TAUZIN. Would the gentleman yield?

Mr. LAUGHLIN. Yes, sir.

Mr. TAUZIN. What you are saying is that like the Federal law, there are criminal provisions which require a rather high standard of proof, but there are no civil provisions to pierce the corporate veil and attach civil liability on to an intentional act of a corporate executive or owner to abandon a barge that is filled with hazardous material, is that correct?

Mr. PETRIE. Yes sir, that is correct.

Mr. TAUZIN. Thank you.

Mr. LAUGHLIN. That is all I have, Mr. Chairman. Thank you very much.

Mr. TAUZIN. Well, again, let me thank you. Greg, you point out a real problem. I think we have done that on both the State and Federal levels. The question is, if we are not going to require ongoing insurance bonding after a vessel is out of its useful life to make sure that this does not occur, that if you do not end up with a defunct corporation, where nobody is responsible, except the American taxpayer, then perhaps we ought to look both on the State and the Federal level, at the capacity to pierce the corporate veil to attach liability. If we can do it for criminal reasons with a high standard of proof, maybe there is some other level. It is worth exploring and examining.

Think about it and give us your analysis on another day as to whether that would work, whether that is going too far, or whether there is a better system. We have got to somehow balance this. We are going to be asking, by the way, for comments from the American Waterway Operators and others involved in the industry side of this for their thoughts and their suggestions as to how we can improve all of this. Here is an area—a balance. We do not want to

run the business into the ground. On the other hand, we want to make sure that we have got a good liability system that works. We would appreciate your analysis for us as you continue your work in that area, Mr. Petrie.

Mr. TAUZIN. Any other Members have questions?

[No response.]

Mr. TAUZIN. All right. Let me thank you again and offer the services of our Committee for not only informational purposes and analysis, but to share progress reports. We will give you what we know, if you will continue to share with us what you are finding out about this problem.

Ms. O'NEILL. Absolutely.

Mr. TAUZIN. Thank you very much.

For our last panel, we are going to hear from that very important side of disposal. For the benefit of the Members, let me make a special introduction here. The gentleman who is going to testify is Mr. Edward Diefenthal, who is the principal officer, and I think his grandfather started the company, of Southern Scrap Materials Company, Ltd., which is, by the way, a member company of Southern Holding Company.

My staff and I had the pleasure just a week or so ago of accompanying Mr. Diefenthal on a tour of not only his facility here in New Orleans, but facilities in Plainsville, Cleveland and also in Clearwater, Florida, where his company, through its other companies, is doing some major work in recycling not only metals, but also plastics and other things that are going to play a vital role in our understanding of the rewrite of RCRA. Mr. Diefenthal, I want to thank you for sharing with us that incredible body of information.

Today, we are going to hear from him regarding the issue of disposal of those barges and those tank operations and what his company has done and what can be done in regard to handling this side of the problem. Mr. Diefenthal, we welcome you and appreciate your testimony today, sir.

STATEMENTS OF EDWARD DIEFENTHAL, SOUTHERN SCRAP MATERIAL COMPANY, INC. AND JIM GRISWALD

Mr. DIEFENTHAL. Thank you, Mr. Chairman, Members of the Committee and staffers. This is a rather complicated question, and we are rather familiar with it because we have been handling this material in the form of floating clean barges for recycling for many, many years now. We have two facilities—as our letter pointed out—one in New Orleans, one in Morgan City. And I would like to say that not only are we willing to take these barges, we are anxious for them and we need the material. And the recycled metal generates jobs and opportunities in the State of Louisiana and throughout the country. I would like to say that we operate in many other states. And so, I am sorry to say that I think as you examine this problem, you are going to find that it is a lot bigger than you think it is. And we have been active in Mobile and in Charleston solving this problem, in cooperation with the Corps of Engineers. So, we will address that in a minute.

I wanted to make a couple of points. First of all, you wonder how these barges end up on the shores of the bayous of Louisiana. And

there are a lot of routes, and this makes it very complex to track them back. For example, most of the barges start out owned by first-class barge lines. They are built new, and certainly, they have a very high value. It is in the order of half a million to a million and a half dollars apiece today. And for scrap, they are substantially valuable as well, as long as they are floating and they are clean. But remember that as they age, the first line barge companies do not want to continue to maintain them, so they will sell them off to second line companies.

And we have faced problems when we have gone out for the "lowest bid" barge transportation from one point to another on the river for our metals where we supply steel mills up and down the Mississippi and found that the lowest price comes from a company whose barges are not fit to load. And they have come to our docks leaking and we have had to put pumps on them and order them out. It would be a disaster for us to have a barge sink at the dock, which is our main ship loading facility where we load vessels up to 40,000 ton capacity. I just cannot afford to have that happen.

So then, imagine from the second line companies, they may go to individuals that buy them and lease them back just to make a quick profit on them. They can also be caught in an accident. And of course, as correctly pointed out earlier, I think by Representative Laughlin, if these barges are regulated and the problems are generated so that they are strict that it becomes difficult for people to remedy a problem of a grounded barge, they are more likely to abandon them where they sit. And the barge may not be contaminated when it is abandoned. But an opportunistic dumper will find that barge as they go along—and they know there are thousands—and I believe there are thousands out there around the country—and will just unload his material right into the nearest receptacle that happens to be there.

It is very difficult to catch these people because they operate at night. These waterways are largely uninhabited. There is nobody around to see what they do, and we have had problems with ships tied up and barges to be tied up at our own place right on the industrial canal at our site with guards on the premises. We have had towboat captains come by in the middle of the night and hop off their towboats and scrounge around on an old destroyer that we may have bought from the Navy for scrapping to see what they can find. And we have found the only solution to be to literally weld up every opening. Padlocks do not stop these people for more than about a minute. They have boat cutters on these ships. And they will get in there, and we, of course, are then liable if one of them falls down on the ship, not to mention what they steal from us.

So, it is a very difficult question, and I do not think there are going to be any snappy, easy answers. But we definitely would like to see this problem solved because we could use the material, and of course, the problem of pollution affects all of us, so I would like to ask Mr. Jim Griswald, who is our plant manager of our main plant here in New Orleans, to perhaps discuss with you some of his experiences in Charleston and Mobile where we have worked with the Corps of Engineers to help this problem.

[The statement of Mr. Diefenthal can be found at end of hearing.]

STATEMENT OF JIM GRISWALD

Mr. GRISWALD. While we were in Mobile——

Mr. TAUZIN. Mr. Griswald, you are Jim Griswald?

Mr. GRISWALD. Yes.

Mr. TAUZIN. And you are——

Mr. DIEFENTHAL. His real name is Wendall, but that is pretty difficult, so we call him Jim.

Mr. TAUZIN. For a guy named Wilburt, I understand.

Mr. GRISWALD. Wendall James Griswald, I am the vice president and general manager of the New Orleans operation.

Several years ago, at the request of the Army Corps of Engineers out of Mobile, we partnered with a salvor and were very successful in removing in excess of 100 barges in the Mobile delta. The Army Corps of Engineers and our salvor and ourselves, we were successful in finding the owners of the barges, the abandoned barges and obtaining clear title and bill of sale. So, we did not have a problem. Nor did we encounter any hazardous waste problems at that point in time. But we did not get all of them. We did identify a number of barges that were abandoned where we could identify the person, but could not find the person. So, they still do exist.

To carry that further, in Charleston, South Carolina, we again—at the request of the Army Corps of Engineers, were successful in removing some 40 lash barges that were declared a hazard to navigation. We knew who the people—who originally owned the barges. A corporation did. The corporation was defunct. They had no money. But as I understand it, using an old 1898 law, the Army Corps of Engineers was successful in declaring these barges abandoned, and therefore, we could receive clear title. And there again, they were clean, except for debris of mud, which we cleaned out. So, it can be done, but it is expensive.

Mr. DIEFENTHAL. I would like to point out that it may be disappointing, but the scrap value of the barge, if it is contaminated, is probably not going to go a long way towards paying for a clean-up. We are looking at a value, as we say, floating at our facility clean in the—say anywhere from 40 to \$75 a ton. And into that, we have to put the cost of cutting it up, cleaning out the mud, disposing of any concrete and so on that may still be there, cutting up the material to final size, loading it in a ship for export and so on, and the final pricing we are getting today is in the \$115 a ton range, so as you can see, we are not exactly talking about huge profit margins. It is very, very tight and very competitive. We are willing to pay for the barges delivered to us, but we cannot afford to receive them if they are contaminated.

Now, I was just speaking while we were listening to the testimony with Jim Griswald, and of course, under the right conditions, I think it might be possible for us to work with the Coast Guard and work out perhaps with disposal companies some sort of turnkey operation where the Coast Guard can identify the barges and we could then give a fixed price and do a total disposal. That would be something we have never done before, but if it would be of assistance, we would certainly be willing to work with your Committee and explore that. I think it is possible and the analogy to the auto-

mobile is appropo because this is a problem where there is a lot of a paperwork. There is a paper trail.

And still, the State of Louisiana has on the order of 500,000 cars that show on their title books and nobody can find. These are cars that have probably been abandoned and scrapped long ago and nobody destroyed the titles. So, this is a problem that we are familiar with. The same thing with barges. The way the city of New Orleans handles the abandoned car problem is that it posts a notice on the vehicle—and I suppose this could be done with a barge—and within a certain period of time, the owner must either remove the car or it becomes city property and they can tow it away. And by placing such a notice on a barge, certainly, if you gave enough time, perhaps a month, anybody—if that barge was still in commerce, somebody would have noticed that by that time. Nobody leaves a barge for a month sitting on a bank. Then, at that point, it could be transferred legally perhaps to some governmental agency and then disposed of. And that would solve the title problem as a martial sale does when a vessel is seized for nonpayment of monies.

Mr. TAUZIN. Thank you. You have raised a couple of issues that we need to discuss. One is, you cannot nor will not take a barge that is contaminated, right?

Mr. DIEFENTHAL. No, we are not equipped at our facilities to decontaminate. We do not accept hazardous material, and in fact, we turn everything around at the gate that we find that might even pose a remote problem. And I can tell you that from scrapping rigs, there are a lot of other things besides oil products that can be in these barges. For example, chromium liquids can be there and other problems—asbestos can be there and so on. And the cost of disposing of these things is such that it can even totally negate the scrap value or even end up in a deficit situation.

Mr. TAUZIN. Well, not only that, but under the Superfund laws, you can become liable under the chain of liability if you accept a contaminated vessel. That is correct, is it not?

Mr. DIEFENTHAL. Yes, that is correct.

Mr. TAUZIN. So, to protect your company, you simply will not take anything that is contaminated?

Mr. DIEFENTHAL. No sir, we could not do that.

Mr. TAUZIN. So, in other words, while we are dealing with a lot of these barges and lash barges and others that might be useful scrap material if they were decontaminated, the Coast Guard or some responsible party still has the problem of cleaning it up before you even can take it?

Mr. DIEFENTHAL. That is correct.

Mr. TAUZIN. Secondly, you raised the question of title, and I would be very interested in getting the cite on that 1898 law. I am sure we can find it, but if you have got it, send it to us. The question of title is very important. You cannot take barges for scrap from anyone, unless you are sure that you are not receiving stolen goods or property that does not belong to the person who brings it to you, right?

Mr. DIEFENTHAL. That is absolutely correct.

Mr. TAUZIN. So, the question of determining a real abandonment of title is a critical part of this operation if we are going to clean

up this mess we have. From my conversation with the Coast Guard, that is not a very clear area of the law, would you agree?

Mr. DIEFENTHAL. I would agree with that, yes.

Mr. TAUZIN. Third, we talked about the issue of identification and finding the responsible party. It seems to me that there has got to be some better technology in identifying the ownership of a big metal operation like a barge than simply tacking a number onto the hull and expecting it to be there when it is abandoned. Are there better technologies for identifying metals and maybe placing some sort of code onto a metal so that you can trace the owner better than simply relying upon a set of numbers?

Mr. DIEFENTHAL. Well, if one knows where the numbers are, of course, I suppose, they are removable. And this is the problem. If someone wanted to disguise the ownership of the barge, they would merely need to cut the plate off that contained the numbers or identification.

Mr. TAUZIN. It is that simple.

Mr. DIEFENTHAL. It is just that simple. And weld something back or even leave it open.

Mr. TAUZIN. So that if you are a defunct corporation, what the heck? You just drop it off with someone else's numbers. But if you really want to dump it and you have to worry about some liability and if you have read anything about Superfund liability, it is a simple task of cutting away the area where the numbers are. And bingo, you have got an abandoned barge that nobody can trace.

Mr. DIEFENTHAL. Yes sir, that is correct.

Mr. TAUZIN. I am asking you, is there a technology for identification available that would identify metals in such a way that people could not do that? Perhaps if you do not know, you can help us find out.

Mr. DIEFENTHAL. I know of no way to do it. We have faced the problem with automobiles. VIN numbers are put in hidden places and so on and so forth. Of course, the problem that we face is that since we recycle literally hundreds of thousands of cars, and many of them come in crushed to one foot in height, there is no way for us to go into this tangled mass. And it is our position; that that is no longer a car; it is simply scrap metal. And this is a continuing matter of debate within the State of Louisiana and around the country as to what—when is a car no longer a car? When is a barge no longer a barge?

Mr. TAUZIN. You raise a good point. They have not been able to find Jimmy Hoffa, much less a number. He might be in one of those barges.

The last part is finances. For your company and others like yours to accept a barge, a piece of abandoned vessel, whatever it may be, and there has got to be some economies in it for you to do that, obviously. In the case of these defunct corporations that you picked up the lash barges for, did you pay that defunct corporation or did you get these barges from the Coast Guard with some arrangement for you to have the metal if you paid the cost of collecting them?

Mr. GRISWALD. The market a lot of times will dictate what we can and cannot do. Present conditions today would not allow us to pay for the barges. The dollars that we would be spending would be

to the salvor. It is very expensive proposition to go and remove an abandoned barge. Normally, the cost of what we would pay at our plant, you would pay to salvor. Therefore, there would be no monies left.

Mr. DIEFENTHAL. He is talking about a barge that is in position on a river some place; not one that is delivered to us floating. That is no problem. We can, indeed, pay for those.

Mr. GRISWALD. Right.

Mr. TAUZIN. And if we were devising a system from scratch that would be better than what we have, it would have some of the elements that I think I have mentioned before; better identification, tracking past useful life, possible requirements for liability insurance until a determination is made that something has been done with the vessel so you can cancel your insurance. Otherwise, you are still liable. Definitions for abandonment clearly need to be stated in the law. Assuming we did all of that, we are still left with thousands of barges out there that have not gone through that kind of a better system. And we have to deal with them. Would it be useful for us to start with the proposition that moving those barges from wherever they are to a collection site somewhere—if that is possible—might be a good way to go, or is that uneconomical or unreasonable?

Mr. DIEFENTHAL. No, I think in many cases, it is probably economical. These barges are abandoned because they are not floating. If they were still floating, remember that—if they are clean—assuming that they are clean and floating, that they have a scrap value and almost everybody on the river knows that. So, that would be like leaving your wallet deliberately on the sidewalk. No one is going to abandon a barge that has a value. So, I presume that most of them are not navigable or are not floating at this time, or they are contaminated.

Mr. TAUZIN. So moving them is a real problem?

Mr. DIEFENTHAL. Moving them is a very serious problem. We ourselves, for example, have had barges go aground in storms carrying a load of, say, steel—certainly not a hazardous product, nor is it a problem. As a responsible company with insurance, we have always salvaged the barges because we realize that if someone would run into one, then we would be liable. And as an established company with plenty of locations for people to go after, we cannot leave it. So, I think it is fairly safe to assume that most of these barges are probably left by defunct companies or individuals that have little in the way of assets and are not, therefore, afraid of being found. And when you find them, you are going to find that they do not have any means to pay for the raising. And it is very expensive, depending on the situation.

Mr. TAUZIN. So, in short, if whatever system we devise does not have an economic incentive built in—perhaps an economic disincentive not to do the wrong thing—the problem will simply continue. Defunct corporations will continue to leave barges. Individuals who are not reputable will continue to erase the identification and dump them when they are no longer an economic value to them to operate or to scrap. And so, we are left with situations that are more and more costly to some system of recovery.

Mr. DIEFENTHAL. I think that is correct. I guess an analogy would be the so-called flags of convenience that are used for ocean-going vessels. As you are probably aware, people register these ships in countries like Panama and Liberia, in a single corporation for each vessel, so that in case of a disaster, the liability does not go beyond the value of that single ship. And barges can be done the same way.

Mr. TAUZIN. That is essentially our problem. When a barge has gone through three different ownership hands and is down to its third or fourth owner.

Mr. DIEFENTHAL. That is right, and at the end of its useful life.

Mr. TAUZIN. Thank you very much.

Questions of the Members, Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

What does a legitimate company do that has a contaminated barge? Are there places where they can take them? I know you said you do not handle those. Does anybody?

Mr. DIEFENTHAL. In fact, I think the oil companies have facilities whereby they can clean these barges and use them—and reuse them for different products. So, although we are not engaged in that business, I think on the river, one would find such facilities available, but they are very costly and especially if the material involved is hazardous.

Mr. DAVIS. So, if I am not a big oil company—I am just a barge company, and I am just surviving, but I have one of these that is contaminated. Probably, there is no incentive whatsoever for me to take that in to a company that is going to scrap it. I would be better off to try to find a place to hide it, I suppose.

Mr. DIEFENTHAL. I think you are right. Under normal circumstances, one would then say the barge company has a right to look to—if it is a barge company and not a producer of the product—to look to the person that hired them to move that material. And if that material contaminated their barge, then they would have recourse against the person from whom the cargo originated. But then, that company may not be solvent either, so it gets to be very complex.

Mr. DAVIS. Are a lot of the barges, in your estimation, that are laying around contaminated or are most of them just regular barges that are not contaminated?

Mr. DIEFENTHAL. I am—I will ask Mr. Griswald to address this as well. My past experience when I was active in this area is that most of them are not contaminated. Most of them are simply not seaworthy anymore, and the cost of raising them has become prohibitive, so they have been left. And that makes them containers of convenience for anybody who wants to dump. So, if we could get them moved quickly enough when they are grounded, so that they are not sitting there long enough for somebody to get something hazardous dumped into them, you would not have much of a problem, or at least a great deal less of a problem.

Mr. GRISWALD. That is correct.

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. TAUZIN. Mr. Hertel.

Mr. HERTEL. Thank you, Mr. Chairman.

It has been interesting, what you said about a solution and comparing it to abandoned cars. I am from Detroit, which is dominated by the auto industry. So I was thinking about it earlier today. For 15 years, we worked with the problem of identification of automobile parts regarding chop shops, and have made some progress in the identification numbers on the parts. But as you said, if you get a lump of scrap steel, then it is a problem.

Mr. DIEFENTHAL. Thank you, sir.

Mr. TAUZIN. Mr. Taylor.

Mr. TAYLOR. I have a couple of points, Mr. Chairman. Obviously, no one intentionally breaks the law if they think the penalty is more severe than the cost of breaking the law. And obviously, we have a problem with the law that allows people to remove the markings from a vessel and that fine needs to be addressed to where it is prohibitive for someone to destroy those markings. Or obviously, people feel like it is cheaper to destroy the markings than to pay the fine if they caught.

But one question I do have for these gentlemen; does a barge ever get so rusty or thin hulled to where it is actually more costly to bring to your yard than to just abandon it—even if it is still floating?

Mr. DIEFENTHAL. I do not think so. They are worth less when they are very thin because the risk of cutting them up is bigger. But if it is floating, we can take it. And we have a slip in New Orleans and a slip in Morgan City and we can make available facilities elsewhere if that were more desirable as a central point where we can quickly pull the barge up where it is aground in our facility and we can cut it there. And so, once it has been beached, it cannot sink any further and that is no longer a problem. The risk, of course, is that it sinks on the way in a delicate area where traffic goes, and this is a liability that one has to face. But if it is truly floating, no. We have never turned down a barge. We have never failed to pay for one if it were not contaminated.

Mr. TAYLOR. And I guess my other question, you referred to—getting back to the identification problem where some of these had been registered overseas, it is my understanding that because of the Cavatage laws, all inland towing vessels have to be American flagged. They have no alternative. So, you—what you are talking about with the overseas registration would only be for ocean-going barges or vessels?

Mr. DIEFENTHAL. Well, I was using that as an example where if a company wanted to do it, you could, say, own a barge in a separate corporation that only owned that barge. And if that barge were later abandoned, you would have to be able to go through the corporate veil to whatever else that person owned. And if a person were operating very marginal barges—and there are companies on the river doing that today, I can tell you, because we face this problem, as I explained. If they know these are marginal barges and are liable to sink, I would expect that they probably would do that. They would simply put them—the ownership in a shell corporation that owns only that one barge and lease it back to their operating company. And then, the company that owned the barge would have the liability and would own nothing more than the barge.

Mr. TAYLOR. And my last question is, going back to the severe downturn in the inland towing business, as with the oil business. What percentage of these abandoned barges would you guess would be from people that when the inland towing business got really bad, they said, well, I will just tie him up until things get to a point where I can make some money, and then, it stayed so bad for so long that they eventually just walked away from it and did something else? Is that a sizable portion of the problem? Is this a cyclical problem or is it going to be a problem from here on out?

Mr. GRISWALD. The barges that we found abandoned and we have been involved with normally are in such condition that they are no longer usable for cargo. We have never—we have found very, very few barges that were usable.

Mr. DIEFENTHAL. To answer your question perhaps more directly, there is certainly a substantial number that probably were allowed to become dilapidated because the companies could not maintain them. And of course, barges require maintenance as any other ocean-going or water-going vessel does. So, I think that it is perhaps partially a cyclical problem and if we ever got them cleaned up, that we would have less difficulty in the future, assuming we did not have a similar downturn.

But remember that since this problem has not been addressed in many years, some of the barges that we found in the Mobile area had been there for so many years that there were generations who remembered that barge being there and used to sit and fish off them and their grandfathers fished off of them. So, we are talking about a very large and long-term accumulation that really needs to be cleaned up.

Mr. TAYLOR. What initiated the clean-up in the Mobile area? I am just curious.

Mr. DIEFENTHAL. Hazards to navigation, as I understand it.

Mr. GRISWALD. Right. There were several barges identified in the river delta that needed to come out. And during that process, others were identified.

Mr. DIEFENTHAL. Once they looked at the problem—the more they looked, the bigger it got. And they finally called—they had dealt, as I understand it, with several companies that had promised to remedy the situation and had not been successful. And they called on us, and we were, fortunately, able to resolve it for them. And I think that they were pleased and to that end, wrote us some complimentary letters, which we have enclosed for your inspection.

But in fact, all of the people in the scrap industry are not familiar with marine salvage, so that this is an area that has to be looked at, too. You want responsible people doing the salvage, just as you want responsible people operating the barges.

Mr. TAYLOR. Thank you, Mr. Chairman.

Thank you, sir.

Mr. TAUZIN. Thank you, Gene.

I think it is fair to say that we have a special problem in our area that goes beyond hazardous navigation. That is, we drain 38 states or so, through the Mississippi River system. It is not only a drainage system; it is a commerce system. If you are going to abandon a barge, you do not drag it back up river to abandon it. You abandon it at the end of the river somewhere, in a bayou or some-

where else where you can hide it. Our Gulf Coast area, Gene, apparently seems to be the area where people will abandon by choice. I am sure once we get some numbers, gentlemen, we will find that the Great Lakes has problems just like we do.

Secondly, we are the area where most of the petrochemical industries are located, and where, therefore, much of the waste is generated. As you heard from our DEQ representative, we are a net importer of waste in Louisiana and this general area. So, our problems are not only the barges being abandoned here, but the fact so much waste is generated and developed and brought here that, as you pointed out, it becomes a vessel of convenience for an illegal dumper to use an abandoned barge. We have got this multiple problem.

Let me thank you for your insights today, gentlemen, and for assisting us.

Finally, let me say a word of particular thanks to my colleagues. Greg Laughlin had to leave, but we had four Members of Congress here accompanying me in New Orleans today. That is incredible. At most field hearings, you are lucky to get someone else to come with you on a field hearing. Gene drove here from Mississippi to be with us this morning. I simply want to tell you all how deeply I appreciate your attendance. I deeply appreciate your attention to an issue that I think you will find out it is equally troublesome in your own areas. But you came knowing it was a problem I had, and so, I deeply appreciate your assistance in this area.

To all of you who attended and participated, let me express my thanks. We are going to build, I think, a body of information from this hearing and may yet lead to some useful legislation and relief.

Finally, to the staff of the Coast Guard, as well as the Subcommittee staff, who helped assemble our panels and arranged this meeting, my thanks to you and to the officials here in New Orleans who made the facility available to us.

With that, the hearing stands adjourned.

[Whereupon, at 11:06 a.m., the Subcommittee was adjourned; and the following was submitted for the record:]

U.S. Department
of Transportation
United States
Coast Guard



Commandant
United States Coast Guard

Washington, D.C. 20563-0001
Staff Symbol
Phone

DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF CAPTAIN WILLIAM J. LOEFSTEDT

ON ENVIRONMENTAL HAZARDS ASSOCIATED WITH ABANDONED BARGES

HOUSE OF REPRESENTATIVES

COMMITTEE ON MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

29 APRIL 1991

CAPTAIN WILLIAM J. LOEFSTEDT, USCG

COMMANDING OFFICER, MARINE SAFETY OFFICE NEW ORLEANS

Captain Loefstedt has served as Commanding Officer of Coast Guard Marine Safety Office New Orleans since June of 1989. Prior to this assignment, he served as Commanding Officer of Marine Safety Office Mobile, Alabama, and as Chief of the Merchant Vessel Personnel Division at Coast Guard Headquarters in Washington, D.C. Captain Loefstedt is a 1963 graduate of New York State Maritime College at Fort Schuyler, Bronx, New York, where he earned a Bachelor's degree in Marine Transportation. He has served a distinguished career that includes sea service aboard the Coast Guard cutters Matagorda and Bering Sea. His shore assignments include the Marine Safety Offices in Seattle and New York, and the Marine Safety Offices in San Francisco and Memphis, where he served as Commanding Officer. He also served in the Merchant Marine Industry Training program with Pacific Far East Lines in San Francisco, and in the Fifth Coast Guard District as Chief of the Commercial Vessel Safety Branch and Fifth District Civil Penalties Hearing Officer. During the energy crisis of 1973-74, he was assigned for eight months to the Federal Energy Office, San Francisco, where he served as the Director of Operations for the Ninth Federal Region. In 1979, he earned a Masters degree in Public Administration from George Washington University in Washington, D.C.

Captain Loefstedt and his wife, the former Margaret R. Hoffman, are natives of New York City. Their son, Robert, is a Lieutenant Junior Grade in the Navy aboard the USS Shreveport (LPD-12). Their son, Brian, is in his final year at Auburn, and daughter Christine is currently a sophomore at Northwestern State University in Natchitoches, Louisiana.

Captain Loefstedt's awards include two Coast Guard Commendation Medals; the Coast Guard Meritorious Unit Commendation; the National Defense Medal; the Vietnam Campaign Ribbon with two stars; the Sea Service Ribbon; the Vietnamese Service Medal; and Rifle Marksman and Pistol Sharpshooter ribbons. In addition, he received a Certificate of Merit from the Federal Energy Administrator for his service with that agency.

STATEMENT OF CAPTAIN WILLIAM J. LOEFSTEDT, USCG
ON ABANDONED BARGES
BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON MERCHANT MARINE AND FISHERIES
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

29 APRIL 1991

GOOD MORNING, MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE. I AM CAPTAIN BILL LOEFSTEDT, CAPTAIN OF THE PORT OF NEW ORLEANS. THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU TODAY ABOUT THE PROBLEM OF ABANDONED BARGES IN SOUTHERN LOUISIANA.

AS THE CAPTAIN OF THE PORT IN THE NEW ORLEANS ZONE, I AM ALSO THE PREDESIGNATED FEDERAL ON-SCENE COORDINATOR (FOSC) IN THE COASTAL ZONE. MY AREA OF FOSC RESPONSIBILITY ENCOMPASSES THE LENGTH OF THE MISSISSIPPI RIVER FROM THE GULF OF MEXICO TO THE ARKANSAS STATE LINE. IT INCLUDES A SMALL PORTION OF THE ATCHAFALAYA SPILLWAY NORTH OF KROTZ SPRINGS; AND THE COASTAL AREA BETWEEN GRAND ISLE, LOUISIANA AND LONG BEACH, MISSISSIPPI. WITHIN THIS AREA I AM RESPONSIBLE FOR ASSESSING SPILLS AND THREATS OF SPILLS, MONITORING THE CLEANUP ACTIONS OF THE SPILLER, AND INITIATING ANY FEDERAL MITIGATION AND CLEANUP ACTIVITIES WHICH MAY BE REQUIRED.

IN RECENT YEARS, MY OFFICE RESPONDED TO REPORTS OF SPILLS AT SEVERAL ABANDONED BARGE SITES WHICH RESULTED IN THE EXPENDITURE OF SUBSTANTIAL AMOUNTS OF MONEY FROM FUNDS AUTHORIZED UNDER CERCLA AND THE FEDERAL WATER POLLUTION CONTROL ACT. FOR EXAMPLE, TWO ABANDONED TANK BARGES LOCATED IN THE HARVEY CANAL NEAR NEW

ORLEANS POSE A SUBSTANTIAL THREAT TO THE MARINE ENVIRONMENT. THESE ARE VESSELS OF CONVENIENCE, SERVING AS RECEPTACLES FOR ILLEGAL DUMPING OPERATIONS. SINCE 1987, MORE THAN \$168,000 DOLLARS HAVE BEEN SPENT IN REPEATED EFFORTS TO MITIGATE THE THREAT FROM THESE BARGES. ANOTHER INCIDENT--A CERCLA FUNDED RESPONSE TO TWO TANK BARGES IN EMPIRE, LOUISIANA--RESULTED IN EXPENDITURES OF OVER \$835,000 DOLLARS.

THESE INCIDENTS, ALONG WITH THE POSSIBILITY OF PROBLEMS AT OTHER SITES, RAISED MY LEVEL OF CONCERN ABOUT THE SCOPE OF THE ABANDONED BARGE PROBLEM. IN THE FALL OF 1989 MY OFFICE INITIATED AN EXTENSIVE SURVEY EFFORT IN CONJUNCTION WITH COAST GUARD AIR STATION, NEW ORLEANS. THE PURPOSE WAS TO DETERMINE HOW MANY BARGES OR OTHER ABANDONED SITES WERE THREATENING OUR RIVERS, LAKES, BAYOUS AND MARSHES. IT WAS OUR GOAL TO QUANTIFY THE THREAT AND--ONCE HAVING DONE SO--TO DEVELOP AN ACTIVE PLAN FOR ADDRESSING THE PROBLEM. CONSIDERING THE CONDITIONS AND LOCATIONS OF SOME OF THE SITES, THE SEARCH PROJECT WAS DUBBED "OPERATION SNAKEPIT."

"OPERATION SNAKEPIT" HAS SO FAR COVERED ABOUT 40 PERCENT OF THE TARGETED AREA. COAST GUARD AIRCRAFT, INCLUDING THOSE OF THE COAST GUARD AUXILIARY, HAVE BEEN USED TO SCOUR A TWENTY THOUSAND SQUARE MILE AREA. THIS AREA WAS DIVIDED INTO A GRID OF 66 SECTORS MEASURING 18 BY 18 NAUTICAL MILES EACH. OVER A 12-MONTH PERIOD, THE PROJECT TEAM HAS LOCATED 165 POTENTIALLY ABANDONED BARGES, 276 STORAGE TANKS, AND 109 WASTE PITS. THE TANKS AND PITS APPARENTLY REMAIN FROM OIL EXPLORATION AND PRODUCTION

ACTIVITIES, AND ARE BEING REFERRED TO THE EPA AND APPROPRIATE STATE AGENCIES FOR ACTION. SINCE WE ARE PURSUING THIS EFFORT AS THE NORMAL OPERATIONAL WORKLOAD PERMITS, I DO NOT ANTICIPATE COMPLETING THIS SEARCH FOR ANOTHER YEAR OR TWO, UNLESS INITIAL FINDINGS INDICATE A MORE PRESSING NEED.

THE OPERATION HAS DETECTED SOME ACTIVELY POLLUTING SITES AND THESE HAVE BEEN IMMEDIATELY ADDRESSED BY MY POLLUTION RESPONSE PERSONNEL. AS AN EXAMPLE, ONE NOTABLE SITE ON THE MISSISSIPPI RIVER BATTURE NEAR HAHNVILLE, LOUISIANA, WAS DISCOVERED IN JULY 1990. SEVERAL BARGES AT THAT SITE, WHICH ONCE SERVED AS A BARGE-CLEANING FACILITY, WERE FOUND TO CONTAIN HEAVY PETROLEUM PRODUCTS. AS MY INVESTIGATORS MADE THEIR WAY THROUGH THE UNDERBRUSH, MORE BARGES IMBEDDED IN THE BATTURE WERE DISCOVERED--BRINGING THE TOTAL TO SEVEN. IN THIS CASE, THE CURRENT OWNER OF THE PROPERTY AGREED TO CLEAN UP THE SITE AND REMOVE THE BARGES. THROUGH LATE 1990, THIS EFFORT WAS MONITORED BY PERSONNEL FROM MY OFFICE AND FROM THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY. BY THE FIRST WEEK OF THIS YEAR, IT WAS CLEAR TO ME THAT THE ACTIONS OF THE RESPONSIBLE PARTY WOULD NOT BE COMPLETED BEFORE THE SITE WAS INUNDATED BY THE RAPIDLY RISING RIVER. I PARTIALLY FEDERALIZED THE CLEANUP ON JANUARY 4, 1991, TO BUILD A CONTAINMENT BARRIER OF SHEET PILE AROUND THE BARGE WHICH POSED THE LARGEST OIL SPILL THREAT. THE FUNDING, OVER \$400,000, CAME FROM THE OIL SPILL LIABILITY TRUST FUND CREATED BY THE OIL POLLUTION ACT OF 1990. FURTHER EXPENDITURES WILL DEPEND ON THE ABILITY OF THE SITE OWNER TO CONTINUE ADEQUATE AND TIMELY CONTAINMENT, REMOVAL AND DISPOSAL.

IN CASE OF EMERGENCY OPERATIONS UNDERTAKEN AT FEDERAL EXPENSE, WE HAVE REMOVED SUFFICIENT AMOUNTS OF THE OIL OR HAZARDOUS WASTES TO ELIMINATE THE ENVIRONMENTAL THREAT, ONLY TO FIND THAT THE INVOLVED BARGES HAVE BEEN FILLED AGAIN BY ILLEGAL DUMPING OF OIL OR WASTE.

AS THE CATALOGING OF SITES CONTINUED, A JOINT TASK FORCE WAS FORMED, MADE UP OF PERSONNEL FROM THE COAST GUARD MARINE SAFETY OFFICE, ENVIRONMENTAL PROTECTION AGENCY REGION SIX, EIGHTH COAST GUARD DISTRICT, COAST GUARD ATLANTIC AREA STRIKE TEAM, LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY, AND THE LOUISIANA STATE POLICE. THIS TASK FORCE FORMULATED A PLAN TO ADDRESS POSSIBLE COURSES OF ACTION, INCLUDING CONTAINMENT, TESTING, CLEANUP, REMOVAL, AND DISPOSAL OF THE POLLUTANTS. THE ULTIMATE GOAL IS TO REMOVE OR DESTROY THE BARGES AFTER THE CLEANUP IS COMPLETE.

THE ABANDONED BARGE TASK FORCE CONCURRED ON THE NEED FOR A MORE IN-DEPTH ASSESSMENT OF THE PROBLEM. IN SEPTEMBER, 1990, ALL OF THE INVOLVED ORGANIZATIONS AGREED TO CONDUCT A MULTI-PHASED OPERATION TO LOCATE ABANDONED BARGES, IDENTIFY OWNERSHIP, TEST CONTENTS OF THE BARGES, AND DEVELOP A STRATEGY FOR CLEANUP AND DISPOSAL. A RANKING SYSTEM WAS DEVELOPED, BASED UPON EACH BARGE'S VISUAL APPEARANCE; PROXIMITY TO RESIDENTIAL, BUSINESS, AND ENVIRONMENTALLY-SENSITIVE AREAS; AND ACCESSIBILITY FOR USE AS A DISPOSAL SITE. THROUGH USE OF AERIAL OBSERVATION, AN INITIAL TARGET GROUP OF NINETEEN BARGES POSING THE GREATEST RISK WAS CHOSEN FOR FURTHER EVALUATION.

IN PHASE ONE, THE SELECTED BARGES WERE VISITED BY A "GROUND-

TRUTHING" TEAM OF COAST GUARD AND EPA PERSONNEL. THE PRIMARY OBJECTIVE OF THIS VISIT WAS TO IDENTIFY THE BARGES, SEARCH FOR INFORMATION CONCERNING OWNERS OF THE BARGE, EVALUATE THE BARGE CONDITION, AND ESTIMATE THE NUMBER OF TANKS FOR SAMPLING. PHASE TWO, NOW COMPLETE, INCLUDED AN ADMINISTRATIVE RECORDS SEARCH AND INVESTIGATION TO IDENTIFY OWNERSHIP AND VALIDATE THE STATUS OF THE BARGES. THIS WAS DONE THROUGH EXTENSIVE RESEARCH, CONDUCTED BY MY DOCUMENTATION DEPARTMENT, AS WELL AS A SEARCH OF THE MARINE SAFETY INFORMATION SYSTEM (MSIS). PHASE THREE, THE SAMPLING PHASE, BEGAN IN MARCH 1991 FOR THE FIFTEEN BARGES THAT WERE CONFIRMED AS ABANDONED. THIS PHASE WAS COMPLETED AHEAD OF SCHEDULE ON APRIL 1, 1991. PRELIMINARY RESULTS FROM HAZARD CATEGORIZATION INDICATE THAT THIRTEEN OF THE FIFTEEN BARGES SAMPLED CONTAIN ONLY OILY WASTE AND WATER; HOWEVER, TWO OF THE BARGES ARE SUSPECTED TO CONTAIN AN EPA-DESIGNATED HAZARDOUS SUBSTANCE. COAST GUARD AND SAMPLE ANALYSIS COSTS TO DATE ARE ESTIMATED AT APPROXIMATELY \$55,000.

FINALLY, IN PHASE FOUR, WE WILL ATTEMPT CLEANUP AND REMOVAL OF THOSE BARGES WHICH POSE AN IMMEDIATE THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT. A SPECIFIC RESPONSE PLAN WILL BE DESIGNED FOR EACH SITE. WHEN THE COMPLETE LABORATORY ANALYSIS OF THE BARGE SAMPLES ARE RECEIVED, THE TASK FORCE WILL EXAMINE THE PROJECT TO REDEFINE PROGRAM METHODOLOGY AND PRIORITIES FOR CLEANUP. WE CANNOT CURRENTLY ESTIMATE SPECIFIC CLEANUP AND BARGE REMOVAL COSTS; HOWEVER, COSTS COULD EXCEED ONE MILLION DOLLARS PER BARGE, DEPENDING UPON THE QUANTITY OF WASTE AND THE PRESENCE OF HAZARDOUS SUBSTANCES.

LEGAL AND FINANCIAL ISSUES ARE ALSO A MAJOR CONCERN. AT PRESENT, MEMBERS OF THE COAST GUARD LEGAL STAFF ARE EXAMINING THE LEGAL BASIS FOR DISPOSING OF THESE BARGES. TO MINIMIZE COSTS, WE HAVE, IN THE PAST, TRIED TO REMOVE THE THREAT TO THE PUBLIC AND THE ENVIRONMENT THROUGH CLEANUP ACTIONS WHILE ALLOWING THE BARGES TO REMAIN IN PLACE. OUR RECENT EXPERIENCE SHOWS THAT UNLESS EXTRAORDINARY MEANS ARE TAKEN TO SECURE THE BARGE OPENINGS, ILLEGAL DUMPERS WILL CONTINUE TO FILL THEM WITH WASTES. WE MAY BE ABLE TO SEAL THE TANKS BY WELDING THE OPENINGS SHUT, TO PREVENT THE BARGES FROM BEING REFILLED. THOUGH THIS MAY APPEAR TO BE THE MOST ECONOMIC WAY TO STOP FUTURE DUMPING, IT IS FAR FROM IDEAL FROM A SAFETY PERSPECTIVE. ALSO, ON NAVIGABLE WATERWAYS, THE BARGES AND THEIR MOORINGS MUST BE FREQUENTLY INSPECTED TO ENSURE THAT THE BARGES ARE ADEQUATELY SECURED. THIS WOULD OBVIOUSLY BE VERY TIME-CONSUMING AND RESOURCE-INTENSIVE.

IN THE LONG RUN, THE SOLUTION TO THE PROBLEM OF ABANDONED BARGES--AS WITH OTHER FORMS OF ENVIRONMENTAL ABUSE--IS PREVENTION. OWNERS OF ABANDONED VESSELS WHO REFUSE TO TAKE RESPONSIBILITY FOR CLEANUP AND REMOVAL MUST BE HELD LIABLE FOR CLEANUP COSTS.

PREVENTION MIGHT ALSO BE ENHANCED BY INCREASED LAW ENFORCEMENT ACTIVITIES, SUCH AS STAKEOUTS, UNDERCOVER OPERATIONS, AND INCREASED PATROLS AND OVERFLIGHTS. HOWEVER, THE COAST GUARD ALONE IS SIMPLY NOT ABLE TO MOUNT A CAMPAIGN OF SUFFICIENT SIZE TO MAKE THIS A VIABLE OPTION. THE SOLUTION REQUIRES COOPERATIVE EFFORTS IN WHICH ALL REGULATORY AND LAW ENFORCEMENT AGENCIES IN A

PARTICULAR AREA COLLECTIVELY ADDRESS SPECIFIC PROBLEMS.

FINALLY, WE SHOULD NOT OVERLOOK THE VALUE OF PUBLIC EDUCATION. AN AWARENESS CAMPAIGN--AIMED AT THE MARITIME COMMUNITY--THAT ADDRESSES ILLEGAL DUMPING, AND PROPER OIL AND HAZARDOUS SUBSTANCE DISPOSAL METHODS IS VITAL TO SUCCESS. SUCH A CAMPAIGN WOULD RAISE THE PUBLIC CONSCIOUSNESS REGARDING THE HEALTH AND ENVIRONMENTAL RISKS ASSOCIATED WITH ABANDONED BARGES AND ILLEGAL DUMPING, AND CREATE AN ATMOSPHERE OF INTOLERANCE FOR SUCH PRACTICES.

I THANK YOU FOR THE OPPORTUNITY TO ADDRESS THIS ISSUE. I WILL BE HAPPY TO ANSWER ANY QUESTIONS.

STATEMENT OF
RUSSELL F. RHOADES
DIRECTOR, ENVIRONMENTAL SERVICES DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COAST GUARD AND NAVIGATION SUBCOMMITTEE
OF THE
MERCHANT MARINE AND FISHERIES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
IN NEW ORLEANS, LOUISIANA

APRIL 29, 1991

Good morning Mr. Chairman and members of the Subcommittee, I am Russell Rhoades, Director of the Environmental Services Division of the U.S. Environmental Protection Agency Region 6. With me today is Mr. Charles Gazda, Chief of the Emergency Response Branch of EPA Region 6. We are pleased to be here today and we thank you for the opportunity to discuss EPA's activities in the Abandoned Barge Strategy.

The Abandoned Barge Strategy began in the Fall of 1989 with concerns over the continuing cleanup problems experienced by the Coast Guard of two barges in the Harvey Canal near New Orleans, Louisiana. In midsummer of 1989, two additional barges of hazardous materials, were discovered near Empire, Louisiana. The discovery of these four abandoned barges that were being used as oil and hazardous material, "midnight dump" sites, prompted a pilot project to investigate the magnitude of the potential problems presented by abandoned barges being used as dump sites for oil and hazardous materials. This has come to be known as the Abandoned

Barge Strategy. We hope this pilot effort will be useful in estimating the scope of the problem nationally. EPA Headquarters has advised us there have been similar barge dumping incidents in and around New York and New Jersey. A great deal of uncertainty exists regarding this problem. In 1989 EPA Region 6 Emergency Response Branch began a survey of local, State, and other Federal agencies in Region 6 in an attempt to determine the number of abandoned barges which could be used as potential dump sites. While no concrete numbers could be established, some local officials estimated the number of abandoned barges at several hundred to more than a thousand. At approximately the same time, the US Coast Guard Marine Safety Office, New Orleans began a series of overflights, in conjunction with normal aircrew training flights, to search out potentially abandoned barges which might be used as dumping sites in the Coast Guard zone of responsibility.

In order to effect a coordinated effort, representatives of the Coast Guard, Environmental Protection Agency, and the State of Louisiana assembled a joint response team in July 1990 in New Orleans, Louisiana. The joint response team selected Plaquemines and Jefferson Parishes as the location for the pilot project based on Coast Guard overflights.

A Memorandum of Understanding between the Eighth Coast Guard District, New Orleans and Region 6 of the Environmental Protection

Agency, delineates the zone of responsibility for response activities, based upon geographic location. Since the pilot project area is within the Coast Guard's geographical zone of responsibility, the Commanding Officer, Coast Guard, Marine Safety Office, New Orleans has the role of the Federal On-Scene Coordinator. For the pilot project, the EPA, Region 6 committed to providing technical assistance support with site safety and sampling plans, quality assurance plans, analytical services, and additional personnel and equipment to collect the samples.

In September, 1990, Marine Safety Office New Orleans prepared and presented to the joint response team a list of thirty sites, prioritized on the basis of potential threat to public health and the environment, to be investigated during the pilot survey. The joint response team reviewed the list of proposed sites, and selected the twenty sites which appeared to present the most significant threat(s). The team then conducted a twenty-one day reconnaissance to locate and identify the barges in November, 1990. The Coast Guard Marine Safety Office, New Orleans used information gathered from the reconnaissance to attempt to identify the owners and/or operators of the potentially abandoned barges.

Due to Coast Guard personnel and equipment constraints imposed because of the Persian Gulf conflict, sampling of the barges did

not begin until March 11, 1991. A total of 16 barges were sampled and 85 samples collected over a 19-day period. The samples were screened and composited, to determine hazardous components of barge contents, and reduce the total number of samples needing to be analyzed. The composite samples are undergoing a full range of analysis at an independent laboratory provided by EPA. Preliminary laboratory results are expected in mid June.

Following analysis and validation of data, the barges will be evaluated according to the potential public health and environmental threats the barges present. The barges will then be prioritized, based upon the urgency for a removal action authorized by either the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/SUPERFUND) or the Oil Pollution Act of 1990 (OPA).

This concludes my prepared remarks. Both I and Mr. Gazda will be pleased to respond to any questions you may have.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

TESTIMONY TO U.S. COAST GUARD

SUBCOMMITTEE ON ABANDONED BARGES

April 29, 1991

Under the Abandoned Barge Project, when abandoned vessels (barges) are identified as presenting a substantial risk to the environment, the U.S.C.G. or EPA will supervise the removal of oil and/or hazardous substances from the tanks of the vessels. Provisions within the Oil Pollution Act of 1990 now give the Federal Government further authority to seize and dispose of abandoned vessels.

Issues relative to the State of Louisiana and its involvement with the program are as follows:

If the State cannot sell or transfer the vessels to new purchasers for reuse or scrap, there will not be adequate State funds available to dispose of the vessels. Failure to expedite vessel removal has resulted in the reuse of these barges for illegal dumping. The U.S.C.G. should obtain necessary authority to utilize federal funds to dispose of these vessels. The Oil Pollution Act of 1990 contains language that provides a mechanism for the U.S.C.G. to seize and dispose of the vessels subsequent to cleanup, where a responsible party is not located. The recently approved Louisiana Oil Spill Prevention and Response Act also contains provisions for State seizure of abandoned vessels.

The problem of abandoned vessels is widespread throughout waters of the State. Currently, the program is spearheaded by the U.S.C.G., New Orleans District, Marine Safety Office (MSO) with some participation by other MSO's.

This program should be enacted on a statewide basis. The primary materials involved are oilfield waste and various types of hazardous wastes.

How will the provisions of the Oil Pollution Act affect the U.S.C.G.'s authority to seize abandoned barges? Will the seizure provision of the Oil Pollution Act only apply to oilfield waste laden barges or will it also apply to CERCLA (Hazardous) waste barges? Many of the abandoned barges contain hazardous waste and thus federal provisions for seizure of these barges must also be secured. The program should include the cleaning of barges containing any hazardous substances and not be restricted to CERCLA or oilfield waste only.

Criteria should be developed to clearly define what is an "abandoned vessel". Other vessels besides barges are abandoned and thus may be utilized for illegal dumping purposes. There are numerous abandoned oil and gas production facilities on barges, particularly in South Louisiana, which may be utilized for illegal dumping. There is a group of severely rusted barges located in Bayou Lafourche just south of Lockport. These barges are moored to the right descending bank of Bayou Lafourche approximately 1/4 to 1/2 mile south of Bollinger Shipyard. They contain what appears to be old oil production equipment and storage tanks. Large holes are visible in the barges. Abandoned vessels such as these should also be incorporated into the program.

Communication and cooperation between the U.S.C.G., the Department of Environmental Quality and other State and Federal agencies throughout the process is of the utmost importance. A Memorandum of Agreement between the

U.S.C.G., EPA and the DEQ may be appropriate to detail standard procedures to be utilized particularly where responsible parties are conducting cleanup and barge removal activities. The U.S.C.G./EPA should assume the primary role and responsibility for disposing of the abandoned vessels once cleaned, with State input incorporated into the agreement.

A recent case on the Mississippi River in Hahnville, Louisiana involved a cleanup effort of abandoned barges by a responsible party. During the course of this operation, which involved the cleaning and scrapping of several barges, numerous violations of the Louisiana Environmental Quality Act and Federal Clean Water Act occurred. The company alleged that certain activities which resulted in the discharge of oily waste to the Mississippi River were authorized by the U.S.C.G. An increased level of communication and understanding between the U.S.C.G. and the DEQ may have prevented these violations.

There are two sites in the Bayou Lafourche Region with barges that may be considered as abandoned. One such Barge, the "Gail L" contains hazardous materials and is located in Amelia near the now-abandoned T. W. scrap facility. The DEQ has worked with the U.S.C.G. and EPA contractors regarding this matter. The barge is parked in the T.W. Scrap slip and the Department has been advised that EPA, through its contractor, is cleaning the barge. Although the EPA has had some degree of involvement in this program, its role should be more clearly defined.

Due to the routine procedure of transferring U.S.C.G. personnel in and out of MSO Districts special care should be taken to assure a smooth transition

of personnel who are knowledgeable of applicable environmental regulations. It would be of significant benefit to have U.S.C.G. personnel maintained at MSO Districts for longer periods of time in order to better utilize the experience gained through their tenure in the region.

From its initial start as a program to simply identify the scope of the problem, the Abandoned Barge Program has developed into a multi-phase operation that includes testing, cleanup and disposal of the barges. Finding, characterizing and cleaning the barges has proceeded in several instances but the legal and procedural problems associated with barge disposal remains the most significant obstacle to the program's success.



Southern Scrap
Material Co., Ltd.

April 19, 1991

Mr. Billy Tauzin, Chairman
Subcommittee on Coast Guard and Navigation
Room 541 House Annex II, 3rd and D Streets, S.W.
Washington, DC 20515

Mr. Chairman and Members of the Subcommittee:

For over ninety years, our company, Southern Scrap Material Co., Ltd. has been a leader in the scrap industry. Our growth has taken us throughout the Gulf Coast Region with the heart of our operations being in New Orleans. We have barge wrecking facilities at New Orleans and Morgan City, Louisiana.

Southern Scrap Material Co., Ltd. has in recent years successfully assisted the U.S. Army Corps of Engineers in ridding the waterways of derelict barges and vessels in the ports of Mobile, Alabama, and Charleston, South Carolina. Southern Scrap Material Co., Ltd. played a vital role in these projects by scrapping abandoned and/or sunken barges and other marine equipment which created not only an environmental hazard, but also a navigational hazard to commercial vessels which operated in these waterways.

In order for Southern Scrap Material Co., Ltd. to provide the service of scrapping abandoned and/or sunken barges, vessels, and other marine equipment, we must obtain the following:

4801 Florida Ave • New Orleans, La. 70117 USA • P.O. Box 26087 • New Orleans, La. 70186 USA
(504) 942-0340 • Fax (504) 942-1616 • Telex 215010

101
Institute of Scrap
Processing
Industry, Inc.

Mr. Billy Tauzin

April 12, 1991

Page Two

1. All barges, vessels and marine equipment scrapped, must be certified gas free and warranted that they do not contain any hazardous or toxic substance as defined in section 101(14) of the Compensation Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601(14), EPA Hazardous Waste Regulations, 40 CFR Part 260, et seq. or as defined and/or contemplated in any other federal or state act, statute, regulation or ordinance
2. Southern Scrap Material Co., Ltd. must have clear and merchantable title guaranteeing that all barges, vessels and marine equipment to be scrapped are free and clear of any and all liens, mortgages, taxes and/or encumbrances.

Attached are letters from private and public institutions regarding work performed by Southern Scrap Material Co., Ltd. in regards to previous clean-up projects.

It is indeed an honor to participate in this hearing. We shall continue to offer our assistance as you require.

Sincerely,



Windol J. Griswold
Vice-President, General Manager

WJG/mb

Encls



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

January 25, 1990

REPLY TO
ATTENTION OF:

Regulatory Branch

Mr. Jim Griswold, Vice President
Southern Scrap Material Co., Ltd.
Post Office Box 26087
New Orleans, Louisiana 70186

Dear Mr. Griswold:

The Mobile District Corps of Engineers appreciates the effort done by Southern Scrap Material Co., Ltd., New Orleans, La., in removing and scrapping over 100 abandoned and/or sunken barges and other marine equipment in the Mobile River Delta during 1986 and 1987.

Your company cooperated fully with Corps of Engineers guidelines during the removal project. The work done by Southern Scrap Material Co., Ltd., helped greatly to clean up a major environmental eyesore. Thank you for a job well done.

Sincerely yours,


Ronald A. Krizman
Chief, Regulatory Branch
Operations Division

Southern Marine Service, Inc.

Post Office Box 2188

Mobile, Alabama 36601

(205) 438-4771 Office

(205) 438-9851 Flooting Area

January 22, 1990

Mr. Jim Griswold, Vice President
Southern Scrap Material Co., Ltd.
P.O. Box 26087
New Orleans, LA. 70186

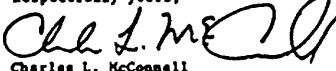
Dear Mr. Griswold:

On behalf of Southern Marine Service, Inc., let me thank Southern Scrap Material Co., Ltd., New Orleans, LA., for removing and scrapping the 23 sunken barges located in our Mobile Fleet during 1988 and 1989.

All of us at Southern Marine Service, Inc., enjoyed working with your salvage crew. Southern Scrap Material Co., Ltd., employees handled the barge removals with professional expertise. Your men did a good, clean job.

If I can ever be of any assistance to you, please advise.

Respectfully yours,



Charles L. McConnell

CLMc/vha